



**PRESIDENT'S SECRETARIAT**  
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11th July 1933.

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Present :

The MARQUESS of LINLITHGOW in the Chair.

Lord Archbishop of Canterbury.  
Lord Chancellor.  
Marquess of Salisbury.  
Marquess of Zetland.  
Marquess of Reading.  
Earl of Derby.  
Lord Ker (Marquess of Lothian).  
Lord Hardinge of Penshurst.  
Lord Irwin.  
Lord Snell.  
Lord Rankeillour.  
Lord Hutchison of Montrose.  
Major Attlee.

Mr. Butler.  
Major Cadogan.  
Sir Austen Chamberlain.  
Mr. Cocks.  
Sir Reginald Craddock.  
Mr. Davidson.  
Mr. Isaac Foot.  
Sir Samuel Hoare.  
Mr. Morgan Jones.  
Sir Joseph Nall.  
Lord Eustace Percy.  
Miss Pickford.  
Sir John Wardlaw-Milne.

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The following Indian Delegates were also present :—

INDIAN STATES REPRESENTATIVES.

Rao Bahadur Sir Krishnama Chari.  
Nawab Sir Liaqat Hayat-Khan.  
Sir Akbar Hydari.  
Sir Mirza M. Ismail.

Sir Manubhai N. Mehta.  
Sir P. Pattani.  
Mr. Y. Thombare.

## BRITISH INDIAN REPRESENTATIVES.

His Highness The Aga Khan.  
 Sir C. P. Ramaswami Aiyar.  
 Dr. B. R. Ambedkar.  
 Sir Hubert Carr.  
 Mr. A. H. Ghuznavi.  
 Lt.-Col. Sir H. Gidney.  
 Sir Hari Singh Gour.  
 Mr. Rangaswami Iyengar.  
 Mr. M. R. Jayakar.  
 Mr. N. M. Joshi.

Begum Shah Nawaz.  
 Sir A. P. Patro.  
 Sir Abdur Rahim.  
 Sir Tej Bahadur Sapru.  
 Sir Phiroze Sethna.  
 Dr. Shafa'at Ahmad Khan.  
 Sardar Buta Singh.  
 Sir N. N. Sircar.  
 Sir Purshotamdas Thakurdas.  
 Mr. Zafrulla Khan.

The Right Hon. Sir SAMUEL HOARE, Bt., G.B.E., C.M.G., M.P., Sir MALCOLM HAILEY, G.C.I.E., K.C.S.I., and Sir FINDLATER STEWART, K.C.I.E., C.S.I., are called in and examined.

*Chairman.*

5613. Sir Samuel Hoare, you are Secretary of State for India. You are accompanied to-day by Sir Malcolm Hailey, who is Governor of the United Provinces, and by Sir Findlater Stewart, who is Permanent Under-Secretary of the India Office. I imagine that in the main it will best forward the course of business if your examination is carried on upon Command Paper 4268 of 1933, which embodies the proposals for Indian Constitutional Reforms, and is known as the White Paper?—(Sir Samuel Hoare.) Yes, please.

5614. Have you any statement which you desire to make at this stage?—The only observation I should like to make, my Lord Chairman, before I deal with the questions is to state that the White Paper is the result of a long series of discussions and investigations beginning indeed with enquiries before the War, going on with enquiries connected with the Government of India Act, then again connected with the enquiries made by the Statutory Commission, and connected with all the investigations that have taken place since then at successive Round Table Conferences and at successive Inquiries that have taken place as a result of those Inquiries. Moreover, in addition to that it is the result of almost incessant correspondence between the Government here and the Government of India, and between the Government here and the Government of India and the Provincial Governments. I make this observation in order that it should be quite clear that the White Paper has not been prepared without careful thought, but that it is the

result of this long series of deliberations and discussions.

*Marquess of Salisbury.*

5615. Sir Samuel Hoare, the difficulty, of course, in the system of the White Paper, is that there is not one system of administration necessarily, I mean, but there is the Government, and then there are the special responsibilities of the Governor, and there is the Reserved Services of the Governor General, and my first question to you would be what staff do you contemplate must be provided for the Governor and the Governor General to carry out the special responsibilities and the Reserved Departments?—We contemplate, taking the Provincial Governor first, that he should have whatever staff he requires. It is very difficult to state in explicit terms what that staff should be, for this reason, that one Province differs from another Province, and that in one Province the Governor may require more staff than he requires in another, but, generally speaking, it is implicit in our proposals that the Governor should have what staff he requires.

5616. Would they be in the nature of personal staff, or would they be drawn from the Indian Civil Service?—The kind of staff I have in mind is a staff drawn from the Indian Civil Service, no doubt supplemented by a personal A.D.C., or someone of that kind.

5617. But you do contemplate, in the case of each Governor, and even more in the case of the Governor General, a certain staff to carry out the obligations of his special responsibilities?—Yes.

5618. You will remember that it has been a matter of discussion amongst us

whether there ought to be in the Governments, in addition to the ordinary responsible Ministers, a nominated Minister, and I think it would be useful to the Committee if we knew how the Government regard that proposal? Of course it has special reference to law and order, but in our discussions it has not been confined to law and order?—Might I be clear before I answer that question as to what kind of nominated Minister Lord Salisbury has in mind? Does he have in mind an official who is not responsible to the Legislature, or a nominated Minister who is responsible to the Legislature?

5619. I meant a nominated Minister who is not responsible to the Legislature, that is to say, who is independent of the Legislature?—The Government have very fully considered that proposal, and we have come to the conclusion that it would be a mistake to have a Minister of that kind for more than one reason. We think, first of all, it would concentrate upon that Minister all the criticism of the Assembly; he would be regarded as the representative of an alien power. Secondly, we do genuinely believe that it is most important to stimulate the feeling of responsibility in the Government, and in the Assembly, and we feel the existence of a Minister of that kind would really undermine the basis of responsibility which is the basis of our proposals so far as they are concerned with the Provincial Governments.

5620. Do you not think that the difficulties about law and order which have emerged in our discussions make any difference in the answer which you have made?—No, I do not.

5621. Even in Bengal?—No, subject to the other provisions in the White Paper under which we give implicit powers to any Governor to intervene in the event of grave menace to order or tranquillity.

5622. That brings me to the question of the formation of the responsible Government. I do not quite understand from, I think it is paragraph 66 or 67, whether it is contemplated that there should be a Prime Minister in the local governments, and a Prime Minister in the Central Government?—We have felt that these kinds of things must grow up, and that we cannot prescribe in detail

in a Constitution Act exactly how these Provincial Governments will work. In no case, except the case of the Irish Free State Constitution, has it been definitely stated how a Government should work. It has been left to grow up organically, and we felt that it might be that in certain Provinces there would be a Prime Minister at once; in other Provinces there might not. As far as we are concerned, we look forward to a time when procedure will conform with the procedure in this country, but we do not think we can prescribe it at the outset.

5623. You mention on the third line of page 55 "the person who, in his judgment is likely to command the largest following in the Legislature." That comes very near a Prime Minister?—It does.

5624. And it is contemplated that the Government should be formed of persons in whom this person who is likely to command the largest following has confidence?—Yes.

5625. He will, to some extent, help to select his colleagues?—Yes.

5626. Will the responsibility of the Government be joint?—My answer to that question is very much the answer I have just given about the Prime Minister. We should like to see the responsibility joint. At the same time we do not think we can prescribe it. Joint responsibility never has been prescribed in any Constitution Act in the British Empire, except in the case of the Irish Free State. Moreover, we do see difficulties in India that had better not be ignored, namely, the fact that the Governor has got to consider the representation of minorities in forming his Government, and in the case of the Governor-General he has also got to consider the representation of the States. That makes it more than ever difficult for us to prescribe in so many words that responsibility is to be collective. We hope it will be collective, but we do not think any good will be done by stating, in so many words that it is to be collective.

5627. Of course, if minorities are represented, does the Secretary of State mean political minorities or religious minorities?—I mean minorities as we always define them in dealing with Indian affairs, namely, the principal religious minorities.

5628. The only difficulty I see about that (and I put the question) is what

will happen if one particular Minister loses the confidence of the Legislature. Of course, under our system the Government all moves together?—It is very difficult to say exactly what would happen. It would depend so much upon the importance of the Minister and how much support he had amongst his own colleagues. I can imagine the Government making it a case of want of confidence.

5629. That would apply to the whole Government, of course—the want of confidence?—The whole Government. I can also imagine that if the Government had not any very great opinion of the Minister, they might make the Minister resign, but I think that that essentially is a case that can only be dealt with when it arises.

5630. What will be the method, as it were, by which the Assembly would signify its want of confidence in a particular Minister? In our system it is sometimes done by moving the reduction of his vote, but that is not allowed, I understand, in this White Paper?—We felt that there it was better to preclude a vote of that kind for this reason: We did not desire a whole series of votes for the reductions of Ministers' salaries constantly going on in the Provincial Assemblies. We contemplated, therefore, that if the Assembly wished to show its want of confidence in a particular Minister it would either withhold supply from the Government, or it would put down a vote of censure, or anyhow some such resolution, as would be treated as a vote of confidence by the Government.

5631. I do not want to press you unduly, Sir Samuel, but a vote of confidence would apply to the whole Government?—Yes.

5632. And if a Government is joint then that is reasonable, but supposing the Government consists of a number of different Ministers who do not altogether agree with each other, how will that be worked out?—I am afraid it must be decided when the case arises. I do not see how else it can be decided. If the Assembly feels strongly about it, the Assembly could put down either a general vote of want of confidence or could put down a vote expressing its want of confidence in a particular Minister, and the Government would then have to decide whether it would

treat it as a collective vote of want of confidence upon itself or as a vote directed against a particular Minister, whom they could sacrifice if they wished to.

5633. It seems to me very difficult to work a system of that kind unless there was a Prime Minister who could make a decision?—I think that may very well be so and I think we shall see in many cases, perhaps in all cases, there will be a Prime Minister.

5634. Or is it the Governor whom the Secretary of State expects to make the decision?—I think it must depend. In the case where there is a Prime Minister the Prime Minister no doubt would take the first decision upon a case of that kind. In a case where there is no accredited head of the Government, I should think then the responsibility might fall upon the Governor.

Marquess of Salisbury.] I do not want to ask any more questions on that particular section.

Sir Austen Chamberlain.] May I interpose a question with Lord Salisbury's leave?

Marquess of Salisbury.] Yes.

Sir Austen Chamberlain.

5635. I wish the Secretary of State would apply Lord Salisbury's question to the particular case of Law and Order. Is it contemplated that Law and Order should be the joint responsibility of the Government or that it might be treated as the personal responsibility of one Minister alone?—We should hope, and we should do everything in our power, to bring it about that the responsibility should be joint. The Simon Commission laid great stress upon the need of making responsibility as collective as possible. It is not because we do not wish collective responsibility to exist that we have not prescribed it, but it is because we feel that it is a matter of organic growth rather than of prescription in a particular statute.

Marquess of Salisbury.\*

5636. Then in respect of Law and Order, you would expect it to be joint at the outset?—I should hope that everything would be joint.

5637. You have told the Committee, have you not, that you expect all this to grow, but Law and Order is an urgent matter. There is not much time for growing. We want to know what is going to happen at once?—Yes, certainly, our desire would be that the responsibility should be collective primarily no doubt upon the shoulders of the Minister, but ultimately upon the Government as a whole.

5638. That brings us to Law and Order. I believe the Government are going to furnish us with statistics as to terrorism. Is that so?—We certainly can if the Committee wishes.

Marquess of *Salisbury*.] The Secretary of State may not have been present when the question arose previously.

*Chairman*.] My noble friend is thinking of the occasion on which a witness undertook to supply us with those statistics.

Marquess of *Salisbury*.] The witness may be in a position to do so, or he may not. It was the European Association witness.

*Witness*.] I see ; but if Lord Salisbury would tell us exactly what he would like, we would try to provide it.

5639. Apparently the matter has just been handed in. I do not know whether that deals with anything like anarchical conspiracy as well as the ordinary outrages?—I do not think I have this note of which Lord Salisbury speaks.

5640. I will not press the matter. Perhaps the Secretary of State will make a note of it. I think the Committee ought to be taken into the confidence of the Government, if I may say so, as to the exact condition of things in Bengal and elsewhere than Bengal, so far as it exists elsewhere?—I am not quite clear ; I am only too anxious to do what Lord Salisbury asks, but I am not quite clear exactly what he wants.

5641. I want a picture of what terrorism amounts to in Bengal. That would include, of course, the political outrages and it would include also anything like evidence of an organised anarchical effort. Because, after all, if we are going to deal with Law and Order we must know what the subject-matter is?—Yes. You restrict it to political movements, not to communal

movements? Do you bring in Communist movements in addition to political movements against the British Empire?

5642. I meant certainly primarily the political movement?—We will certainly see what we can do to provide the Committee with what they ask.

5643. I do not want to revert to an incident which took place earlier in our Proceedings, but, of course, it is very important that the Committee should know how the responsible Police authorities of the Bengal regard the Terrorist condition and any political conspiracy. There has been a certain amount of discussion in the Committee, but there has been no evidence laid before the Committee on that head, as to how the Bengal Police regard it?—I have, of course, been in constant communication with the Governor of Bengal upon all these very important issues, and I know that the Governor has been in very close touch with his Inspector-General of Police. When, therefore, I say that in my view Law and Order should not be reserved as such, even in Bengal, it is not without full consultation with the Governor, who is, perhaps, more closely interested in the administration of the Police than anybody else.

5644. I am sure of that, of course, and I am not going to press the Secretary of State to an answer, but I think it would really be proper, if I may venture to give my opinion, that we should have a Witness before us representing the Police in Bengal, or knowing exactly what their attitude of mind is towards this particular subject, and if the Secretary of State says he would rather not answer at this moment, I will not press the question?—I think the answer I would make now is that I should very much deplore serving officials giving evidence before the Committee at all, and, if the Committee decided that they should give evidence, I should still say that it is very difficult to pick out one particular serving officer who may hold opinions upon a particular issue, and not to give other serving officers who may not agree with him the opportunity of rebutting his evidence.

5645. I shall not pursue it, because I said I would not, but I hope the Secretary of State will think about it a little. Then as regards the C.I.D., would the

Secretary of State like to say anything in evidence in respect of them alone?—Would Lord Salisbury make his question a little bit more explicit? I am not quite sure what it is that he wishes to ask me.

5646. There are two questions which arise. The first question is: Is the C.I.D. to be reserved from the authority of the responsible Governor in each Province? A further question is: Shall the C.I.D. be an All-India Service under the Governor-General alone?—There is the further question, if I might put it to Lord Salisbury, before I answer his two questions: What exactly is it that he means by the C.I.D.? The C.I.D. in the minds of many people is the Secret Intelligence Branch. As a matter of fact, the C.I.D. in India is a much bigger organisation than that, and the branch dealing with Terrorism is the small special Intelligence Branch. Does Lord Salisbury mean the C.I.D. generally, that is to say, the big organisation in direct touch with the ordinary Police administration, and with the day to day Police administration, or does he mean the small special organisation dealing with Terrorism?

5647. We should all be very much guided by the views of the Secretary of State in that matter, but I think I had in my mind the special reference to the Terrorist organisation?—The difficulty with the big C.I.D. organisation is that it is so much tied up with the ordinary day to day criminal work of the Police, that, administratively, it would seem almost impossible to segregate it from the Police administration generally. With regard to the Special Intelligence Branch, that is to say, the organisation dealing with Terrorism in Bengal, there, I think, a segregation may, administratively, be less difficult, and on that account we have in the White Paper proposals given the Governors implicit powers, though not explicit powers, at a time of emergency to make special provision for an organisation of that kind.

5648. You say you have given him power or you would give him power?—We have under the White Paper given him implicit powers to take action when he thinks fit.

5649. I am not quite sure that the Committee knows what you mean by implicit powers?—If Lord Salisbury would look at paragraph 71, on page 56,

of the White Paper, under paragraph 71 a Governor could deal with the Special Intelligence Branch in whatever way he thought fit.

5650. And you think that the power conferred by that paragraph would be sufficient for him to withdraw the Special Branch from the jurisdiction of the responsible Minister, and even withdraw. I suppose, the whole C.I.D. from the responsible Minister, if he thought fit?—Yes; and, if I may make this addition to my answer, we felt that it is better to deal with a state of affairs of that kind in general terms rather than in explicit terms, for this reason. First of all, we do not want to make a distinction in the Constitution Act between one Province and another. Rightly or wrongly, we felt that it is better to give all Governors these general powers, knowing at the same time that it may be necessary, perhaps only in one Province, ever to put them into operation, but we have felt that it is better to deal with general powers of this kind, rather than to make explicit provision for a particular contingency in a particular Province.

5651. The Governor, of course, using that power, might find that it was not sufficient to have the Special Branch of the C.I.D. under his authority. He might want to have agents to carry it out within his jurisdiction, or the Governor-General, of course, in his own case. Does the Secretary of State consider that paragraph 71 would cover all that, if it was necessary?—Yes.

*Sir Austen Chamberlain.*

5652. Lord Salisbury invited me to put a question, if I felt inclined. The Terrorist conspiracy has shown itself, to some extent, in other places than Bengal, has it not?—Yes.

5653. It might, though we hope it will not, at any time develop in other places?—Yes.

5654. Do you think it is sufficient to rely upon the powers of individual Governors acting in their discretion in such circumstances as those, or would it not be better that the powers should be vested in the Governor-General for the whole country, and that that Special Branch which may require action in different Provinces should be under his

authority in his discretion acting through the Governor?—I do not think there is very much difference between the proposal in the White Paper and the proposal just suggested by Sir Austen Chamberlain. The Governor in every case would be acting as the Agent of the Governor-General, and subject to his directions.

5655. The suggestion that I have made would make the special organisation, wherever it was required, a service reserved to the Governor-General, and would meet your point, that we must not legislate invidiously against a particular Province?—I think that Sir Austen's suggestion is a matter for consideration. I would, however, ask him to keep in mind the fact that Law and Order is a Provincial subject, and it may be found better, from the administrative point of view, to keep it more directly under the Provincial administration. But, in actual practice, the Governor, as I have just said, will be acting as the Agent of the Governor-General.

Marquess of Salisbury.

5656. The Secretary of State says that Law and Order is a Provincial subject, but, unfortunately, the criminals do not always recognise that?—I do not think, Lord Salisbury, that affects it, though the division of subjects in a Constitution Act is to those subjects which should be administered Provincially and those which should be administered Centrally.

5657. Perhaps, I was too brief, but it is clear that a conspiracy, and even a crime might extend over the borders of more than one Province?—That, of course, is perfectly true. None the less, if you take the example of the United Kingdom, most of the Police administration is under local authorities.

5658. Subject to the Home Secretary?—Subject, as Lord Salisbury knows, to the Home Secretary to a very limited degree.

Marquess of Reading.

5659. May I ask you this, Secretary of State: You said just now that the Governor would be acting as the Agent of the Governor-General; do you mean that whenever the Governor is acting on his own special responsibility, he

would be acting as the Agent of the Governor-General?—In the Constitutional sense, yes. The chain of responsibility is the Governor, the Governor-General, the Secretary of State, and Parliament.

5660. I find it a little difficult to follow in that way. I am only asking to clear it up so that one need not come back to it, just to see what is meant by it. Do you mean because he is under the direction and superintendence of the Governor-General under the Act? He would be, of course. Is that the reason?—Yes. There must be the chain of responsibility, and the chain of responsibility must pass through the Governor-General to the Imperial Parliament and the Secretary of State.

5661. I only wanted to get quite clear as to what was meant by it. Suppose, for example, he had the special responsibility—the Governor of Bengal, we will say. He has a special responsibility entrusted to him. He wishes then in his discretion to act; he takes action accordingly. He is acting on his own discretion, is he not, or do you think he would have to consult the Governor-General? That is what I am anxious to ascertain from you?—I think it would depend very much upon the circumstances. I think in nine cases out of ten a convention would grow up under which he would not consult the Governor-General, but technically and Constitutionally the Governor-General would give him directions.

Sir John Wardlaw-Milne.

5662. May I just ask a question to clear that up? The Secretary of State refers to the special responsibilities on page 23, paragraph 47, in which case it is there stated that the Governor-General will act on his entire responsibility, and that the Governors are to be backed with special responsibilities acting as his Agent. Is that what he refers to?—Yes. The actual paragraph in which this is brought out is paragraph 72.

Mr. Zafrulla Khan.

5663. Which should, of course, be read with paragraph 43 in the Introduction on page 22?—Yes, in paragraph 43 of the Introduction. Paragraph 43 is explanatory of the position.



Marquess of Salisbury.

5664. If I may repeat what has already been discussed in the Committee, though I think it has not been discussed, when we have been taking evidence, which makes, of course, a great difference, in connection with this subject—what proposal is in the mind of the Government with regard to giving access to various officials, leading officials, in each Government to the Governor, or in the case of the Governor-General, and I refer very particularly to the Inspector-General of Police. Do the Government contemplate that the Inspector-General of Police would have the right of access to the Governor of his own motion?—We have very fully considered the various alternatives, and I think we should all admit that there is a good deal to be said for either course. At the same time, we have come down upon the view expressed in paragraph 69, under which the Governor would be given general powers of arranging to see any officials that he wished, at any time that he wished, and I believe in actual practice a Governor who is effectively carrying out his duties and who is interested in the administration of his Province, will see the Provincial officials very frequently; and, in the case of the Inspector-General of Police, it is open to the Governor, under paragraph 69, to make any arrangement that he likes with him.

5665. Of course, the difficulty is that we do not understand how a Governor can exercise his special responsibilities unless he is kept always *au fait* with what is going on?—We should hope he would be kept *au fait* with what is going on, both by his own staff and also by giving directions that whatever papers were important in the administration should be brought to him, and he should have an opportunity of studying them. I contemplate that the Governor would be following very closely what was happening, and that he would have at his disposal both the staff and the reports to check what was happening outside, and to realise when a situation was developing under which he might have to intervene under his special responsibilities. Upon the whole, we have thought that that was a better course than the course of stating explicitly in a Constitution Act that such-and-such officials have the

right of access. We felt, rightly or wrongly, that if we had made a statement of that kind in explicit terms, the result of it would be, first of all, to undermine the responsibility of the Government, and, secondly, to give the impression that there was suspicion between the Governor on the one hand, and his administration on the other. On that account, it seemed to us much wiser in the interests of sound administration and in the interests of peace and concord between the two sides of the Government, to give the Governor the fullest possible powers, but to let him exercise them in the way that he thinks best in the circumstances.

5666. Has it not occurred to the Secretary of State that it is much more invidious for the Governor to send for the Inspector-General at a particular moment than if he saw him regularly?—I am contemplating that he would see him regularly.

5667. You mean under this Clause he would be able to say: "I will see the Inspector-General once a week"?—Yes.

Lord Eustace Percy.

5668. Has the Secretary of State ever considered the possibility of giving certain officials who have a more or less independent or statutory status, such as the Inspector-General of Police, the Advocate-General, and the Accountant-General, the right of access both to the Cabinet and to the Governor in order to avoid this invidious appearance?—I am not sure how far we have considered the right of access to the Cabinet. I think there again, subject to further consideration, I would say that it is better to leave it in general terms. After all, we are dealing not with a small uniform country, but with a great Continent, and I believe myself that procedure is going to differ very much from one Province to another, and that it is therefore better not to be too explicit in matters of this kind, but to ensure the Governor having the fullest possible powers for dealing with his special responsibilities but leaving him a certain latitude as to how he applies them.

Sir A. P. Patro.] May I add, with the Noble Lord's permission, that at present the Heads of Departments, especially the Inspector-General of Police, is always

invited to be present at Cabinet meetings, and to give his advice in matters relating to the carrying out of law and order in the Provinces. I am sure my friend, Sir Ramaswami Aiyar will also support me, that, in connection with this Mopla Rebellion the Inspector-General was invited to advise the Cabinet as to the procedure to be adopted.

Marquess of *Salisbury*.] I appreciate the reasons which affected the Secretary of State in the answer he gave, but, if Parliament is giving up this tremendous authority, it is necessary to reassure us that there will be proper liaison between the principal officials and the Governor.

Sir *Ramaswami Aiyar*.] As my name was mentioned by Sir A. P. Patro, it may be as well to mention that, although now and then the Inspector-General was present at meetings of the Cabinet, yet his Excellency, Lord Willingdon, always made it clear that the Inspector-General should consult the Member first, and, with his permission, attend the Cabinet.

Sir A. P. Patro.

5669. Yes, that is so ?—If I may add this observation to the answer I have given to Lord Salisbury, I quite realise the need not only for reassuring public opinion here, but for reassuring a great service like the Police in India, but I still think it is better to deal with the question in the general way in which we have dealt with it in the White Paper, supplementing, however, the clauses of the Constitution Act by whatever is thought fit in the circumstances to insert in the Instructions. I think the Governor's Instructions are the proper vehicle really for giving him a lead as to how we hope he will exercise these particular responsibilities, and I would remind Lord Salisbury that special sanction is to be given to these Instructions by making them subject to a vote of both Houses of Parliament.

Lord *Salisbury*.

5670. So if they are modified that will come before Parliament again ?—Yes.

Marquess of *Reading*.

5671. That means, as I understand it, Secretary of State, that in the Constitution Act in some form or other (it may

be in an Appendix, or whatever you think right) there will be a provision dealing with these Letters of Instructions ?—Yes, certainly.

5672. It does not mean, does it, that whenever a Governor or Governor-General is going to India, or to a Province, his Letters of Instruction would then have to be submitted to Parliament ? You did not mean that, did you ?—It would be the standing Instructions both to the Governor-General and to the Governor.

5673. I am drawing the distinction as I thought between what is in the Act of Parliament, or in one of the Appendices to the Act of Parliament, as defining what is to be in the Letters of Instruction. That is general. The question I wanted to put was, Is it suggested that under this practice it would be necessary for Letters of Instruction issued to a particular Governor or a Governor-General after the Constitution Act is passed, to be submitted to Parliament ?—As Lord Reading knows, the Letters of Instruction are standing Instructions.

5674. Yes ?—And, as far as I know, they have not been varied since the Government of India Act. These Instructions have gone on for 12 years.

5675. They are not under Act of Parliament at all, are they ?—No, but I am making that statement in order to show that they are not in actual practice varied from year to year, but it is our intention that Instructions in the future should have Parliamentary sanction behind them for this reason, that we are making them the vehicle of so many important developments.

5676. I only want to get this clear. I am not challenging for a moment that view. All I wanted to be clear was this ; I quite follow that that would be necessary in the Constitution, that you wish to get certain instructions which would have to form part of the Letters of Instruction. All that would be dealt with by the Act of Parliament, but what is not clear to me, and why I am asking the question, is when a Governor or a Governor-General is about to proceed to India to take up a position to which he has been appointed is it suggested that the Letter of Instruction appointing him would then have to come before Parliament for approval ?—I see Lord Reading's point.

5677. The reason I am putting it, Secretary of State, is because, for the first time, I think, you are making Letters of Instruction which hitherto have been from the King, and which will continue to be from the King, much more subject to Act of Parliament than has hitherto been the case. That is why I was asking?—I am assuming that under the White Paper proposals a Resolution of both Houses would give sanction to the standing Instructions, and those standing Instructions without further alteration would be issued to a Governor when he was going to India.

5678. May I put one final question on it, and then, as far as I am concerned, I have finished? That would not mean, would it, that you would have to conform in each case to particular Letters of Instruction as passed by Act of Parliament? It would mean that you must at least include and comply with those, but it would not mean that you could not vary them, would it, because certainly, in my experience, I have known the Letters of Instruction varied before without their having to be submitted to Parliament, of course. It was done by letters from the King?—I had better refresh my memory on that point. I did not think that Governors' Instructions had been varied. I am dealing with the Provincial Governors.

Marquess of *Reading*.] I do not want to press the point. Would you mind having it examined so that they we may be clear about that? My impression was certainly that hitherto there has been elasticity in the Instructions which have been issued, and all I wanted to see was that that should be continued. I remember, in my own case particularly, definite alterations were made in the Letters of Instruction without Act of Parliament in order to meet new conditions.

Sir *Tej Bahadur Sapru*.] May I remind Lord Reading that when he was the Viceroy it was discovered that by chance a clause giving him the Royal Prerogative of Clemency was omitted, and I had to draw the attention of the India Office to it at that time, and the Instrument of Instruction was varied. It arose in a very important case which passed through me to your Lordship.

Marquess of *Reading*.

5679. Yes?—I will certainly look into Lord Reading's point, but I think it is sufficient for this examination this morning for me to say that the main directions in the Instructions we intend, under the White Paper, to have the sanction of both Houses of Parliament.

Archbishop of *Canterbury*.] May I ask, to make that clear: In paragraph 64 there is opportunity given for Parliament not only to approve of the original Instrument of Instructions, but to make representations as to any amendment, addition or omission?

Marquess of *Salisbury*.] That is at the time it is first submitted to Parliament, I take it?

Archbishop of *Canterbury*.] Is that at the time it is first submitted, or at subsequent stages?

Marquess of *Salisbury*.] It does not mean that Parliament is suddenly to come down *proprio motu* and say: "We want the Instructions altered." Of course Parliament can do anything, but that is not the intention, is it?

*Chairman*.

5680. I think it is for the Secretary of State to consider whether he should put in some Memorandum at the end of his examination to clear up these points which have been raised, if that is his view?—Certainly, my Lord Chairman, as long as we are clear that the important things will be in the Instructions, and the important things will have the sanction of Parliament behind them.

Marquess of *Salisbury*.

5681. May I add one word for the Secretary of State's consideration? He has used several times in answer to my noble friend the words "standing instructions," so I gather they will be uniform always—not any special instructions to the Governor of Bengal different from those to any other Governor. He mentioned that, did he not? "Standing" would mean that they were a uniform thing issued to every Governor of every Province when he went out?—Yes.

5682. I wonder if the Secretary of State will consider whether that is

sufficient?—Yes. Lord Salisbury will also bear in mind that the Secretary of State, outside the instructions, very often gives directions to a particular Governor.

5683. Yes. I am sure the Secretary of State will forgive me saying that is a protection to the Secretary of State, but it is not altogether a protection to Parliament?—Except to this extent, that the Secretary of State is responsible to Parliament. If he is giving his directions badly, as a rule there are plenty of critics who make it known.

Marquess of *Salisbury*.] If Parliament knows anything about it.

Major *Attlee*.

5684. Could I ask the Secretary of State whether it is the intention that Constitutional progress in the Provinces of India should be effected by varying from time to time the instructions given to Governors; whether that is done by Parliament or the Secretary of State is another matter; but whether that is the intention of using that as a vehicle for alteration?—Yes; I certainly contemplate development taking place on those lines. I think in actual practice what will happen will be what has happened in many other parts of the British Empire, namely, that instructions and future Acts of Parliament represent an actual state of affairs that has been created.

Sir *Austen Chamberlain*.

5685. Would the Secretary of State put forward the fact that the instructions would be subject to the assent of Parliament as a guarantee for Parliament or a safeguard for Parliament on which Parliament could rely?—Yes.

5686. The answer which he has just given would seem to imply that after those instructions have been approved by Parliament they might be varied without the authority of Parliament?—No; if I gave that impression it was not what I intended. Supposing Parliament was ready to alter the instructions in the future, Parliament, I assume, would take into account the developments of a period of years, but the sanction of Parliament would be equally necessary.

Archbishop of *Canterbury*.

5687. Does not No. 72 contemplate not only that there will be the instrument of instructions which cannot be varied without the authority of Parliament, but also provisions for special directions to the Governor by the Governor-General or by the Secretary of State, provided they are not inconsistent with these instructions?—That is so.

5688. So it leaves there, provided it be not inconsistent with the instructions, a certain liberty with the Secretary of State to give directions as circumstances may arise?—Yes, that is so; and that latitude would enable the Secretary of State or the Governor-General to give directions to a particular Governor to exercise his powers in this or that way.

5689. Provided it be not inconsistent with the instructions to which Parliament has given its assent?—Yes.

Marquess of *Salisbury*.

5690. I do not know whether you could lay a model form of instructions before the Committee so that we should know and Parliament should know exactly what was really intended?—Yes; we have no doubt Lord Salisbury will remember a draft in paragraph 73 which is not intended to be exhaustive.

5691. No—it says, "*inter alia*"?—But it is intended to be an illustration of the kind of instructions we have in mind.

5692. I think if that could be developed so that we should know, not necessarily the final form which the Secretary of State would adopt, but the sort of thing he is contemplating, it would be helpful?—I am reminded that our reason for not inserting greater detail into the instructions in paragraph 73 was that we felt that we had better wait until the Committee had got further with its deliberations and until we knew what further instructions the Committee wished to have inserted.

5693. Of course, the Secretary of State must choose his time when he thinks fit to do it?—But I would certainly agree with Lord Salisbury that at some time or other (perhaps when our minds are a little clearer as to what we want in the instructions), such a draft should be put before the Committee.

5694. We have discussed something about the special responsibilities of the Governor and how the Governor is to know the occasions when he ought to use his special responsibilities, and this brings me to the further question of how the Governor will act under his special responsibilities if his directions are not carried out. Of course, we are assuming that he is at issue with his Ministers, otherwise the case would not arise. No doubt the ordinary case will be that he will not be at issue with his Ministers, but the special responsibilities are there when he is at issue with his Ministers, or with one of them, and in that case, when he finds it necessary to exercise his special responsibilities, how will he see that his order is carried out?—Constitutionally his orders will have to be carried out. His order will be the only effective order. Any official, therefore, will have to carry out his order. When it comes to a political situation it might, I suppose, be suggested—perhaps it is suggested in Lord Salisbury's question—that the officials would refuse to carry out the Governor's order.

5695. We will not say "refuse." We will say "neglect to carry them out." I will say "refuse" if you like, by all means?—If it were simply a case of neglecting to carry out the Governor's order he would have to insist that it was carried out. If, on the other hand, they refused to carry out his order (a contingency that I should have thought was very unlikely, in view of the fact that in all these difficult times now, for many years under the greatest provocation very often, under the greatest political pressure very often, the Services, both Indian and British, have carried out their instructions), I would say that in a contingency in which the Services refused to carry out the Governor's instructions, then a state of emergency had arisen and the breakdown clause in the Constitution would have to come into operation, and he would have to take over the government himself. I think it is very unlikely that that state of affairs would arise, if for no other reason than that for years to come the Governor will have the Secretary of State's services and the other superior services on which to depend; but when I say that, I do not in the least intend to suggest that the other services, mainly Indian services, are in the least likely

to refuse to carry out the Governor's orders.

5696. No, but when you are providing a safeguard, of course, you must contemplate the cases when the safeguard is required. Let us suppose (I hope everybody here will realise I am not saying this by way of desiring to be in the least bit neglectful of reasonable feelings and susceptibilities, but we must put the case as it might arise) there was a Communal difficulty and the particular Minister, because of his Communal convictions, was unwilling to carry out an order of the Governor under his special responsibilities, what the Committee, I am sure, would want to know is, how would he proceed to enforce his will? All the subordinate officials would be in the hands of the Minister. Their careers would be dependent upon his will, and so forth, and how would he act if he found that what he directed was not carried out? Of course, the Secretary of State said he might suspend the Constitution, but he cannot do that every time there is a breach of the rule of special responsibility?—The Governor would give his order; I believe the Governor's order would be carried out. In the event of communal trouble, I suppose it might be argued that officials might refuse to carry out their orders under present conditions. They never have done so; I do not believe they will do so.

5697. But, surely, the answer, "They never have done so," is no sufficient reply when we are substituting for the present Government responsible Ministers. After all, the responsible Ministers are largely and must be largely affected by the views of their electors and their constituents?—It is not a complete reply, I quite admit; at the same time, it is a presumption, anyhow, judged upon our past experience, that they will carry out the Governor's orders.

5698. But I mean, if they will carry out the Governor's orders, why have the rules of special responsibility at all?—For the simple reason that the Governor could not intervene unless he had this field of special responsibility.

5699. I should have thought he could always intervene. He could say to the Minister that he wished certain things to be done?—Certainly, he could, if he had no ministerial responsibility, but the

whole basis of our scheme is that there should be ministerial responsibility, and the Governor should only intervene in his own special field of responsibility.

5700. I must not press the Secretary of State too far, but, at any rate, the Secretary of State does not contemplate a case where a responsible Minister would decline to carry out the wishes of the Governor?—Yes, I do; I contemplate that case, and I contemplate that the Governor then would give instructions to officials over the head of his Minister.

*Sir Austen Chamberlain.*

5701. Would he not dismiss his Minister?—Certainly, I should think so, almost inevitably.

*Sir Austen Chamberlain.*] I understand Lord Salisbury's fear to be that if the Minister remained in office, the Services would look to him as their Chief, and be afraid to obey the Governor's instructions?

*Marquess of Salisbury.*] That is right.

*Sir Austen Chamberlain.*

5702. Would not the Governor's remedy be to dismiss that Minister and appoint another who would carry out his instructions?—I should think so. I hope the contingency will not happen very often, but supposing it did, I can imagine that is what would happen.

*Marquess of Salisbury.*

5703. We all hope, of course, that the contingency will not happen; it is only if it does happen?—Yes. Lord Salisbury must, however, remember that the Senior Officers in the administration will not be dependent for their careers upon a Minister of that kind at all or upon a Government that is hostile to the Governor.

5704. All the subordinate officials, the local Police, and others, will largely depend upon the Minister, for instance?—Yes; at the same time, in a contingency of that kind, judging from experience here, I would have said that the lower officials in the Services would follow their senior officials.

5705. The District Magistrates, for instance; they would be directly under the responsible Minister?—No; they

would be recruited under the Secretary of State and Parliament.

*Lord Hardinge of Penshurst.*] May I put a question, with Lord Salisbury's approval?

*Marquess of Salisbury.*] If you please.

*Lord Hardinge of Penshurst.*

5706. Would the Governor have the right to dismiss a Minister?—Yes, in the exercise of his special responsibilities.

*Lord Hardinge of Penshurst.*] Is that included in your draft?

*Lord Eustace Percy.*

5707. Supposing it is not under his special responsibilities? It is inherent in the tenure of the Minister, under paragraph 66, to hold office during the Governor's pleasure?—Yes. At the same time, that is a phrase that has grown up around Constitutional meanings and would imply that the Governor would not intervene, but, apart from that, there is the fact that in his field of special responsibilities the Governor can intervene in any way he thinks fit to see that those special responsibilities are carried out.

*Marquess of Salisbury.*

5708. Supposing the Minister was dismissed and supposing that the convention which the Secretary of State hopes for had already grown up, and there was joint responsibility, and, thereupon, the rest of the Government said: "Oh, no, of course, we stand in with our colleague; we shall all resign," what would the Governor do then?—He would have to look for another Ministry.

5709. Who would not have a majority in the Chamber?—Who might not have a majority in the Chamber.

5710. Well, what then?—He might have to have an election.

5711. He might dissolve Parliament?—Yes.

5712. That is not always effective, as we know?—What would Lord Salisbury suggest? What further power would he suggest that he should have?

5713. My object is to get from the Secretary of State a complete picture of what really is going to be done under the White Paper and when he produces,

as he has done with the greatest candour, these proposals for special responsibility; which mean what is to be done in the case of a crisis, then I am only asking how the crisis could be worked out, and I am suggesting to him that if the Minister resigned or was dismissed, his colleagues might resign and the Governor might be left in the position of not being able to get a Government at all?—If he could not find a Government at all, then a case of a breakdown of the Constitution would have arisen, and he then has to resume full powers. I do not myself believe that that situation is ever likely to arise, particularly in view of the Constitution of the Provincial Assemblies. I think it is most likely that the Governor would be able to find an alternative Ministry.

5714. It really depends upon how far the thing had developed on the lines which the Secretary of State anticipates. If a Parliamentary system with joint responsibility had grown up after the model of the British Constitution, which is what I understand to be the object, it almost certainly would happen. Unless the Minister had acted against the wishes of his colleagues, they would all stand by him?—Yes. At the same time, Lord Salisbury should remember the Constitution of the Indian Assemblies. My own conjecture would be that a situation of this kind might arise in a case of communal discrimination; I think that is the kind of state of affairs that might lead to a crisis in several of the Provinces. In that case, it seems to me to be reasonable to expect that the Governor would not be entirely isolated, but that he would have behind him a big body of opinion, both in the Assembly and in the Province outside. I think it would be very rarely that the Governor would find himself entirely isolated, with not sufficient support in the Assembly or in the Province to form an alternative Government.

5715. The Secretary of State will remember that in his evidence Sir John Thompson suggested that they might be a government of officials, but he knows that that is really not allowed under the White Paper. They must all be Members of Parliament, must they not?—Supposing the Governor cannot find an alternative Ministry, and the Constitution has been brought to a standstill, then a breakdown would arise and the

Governor would carry on with officials or anybody else that he wished.

5716. I meant, short of a breakdown, it would not be open to him when the Government resigned to fill the offices with officials?—No.

5717. Therefore, he would be driven to suspend the Constitution, in that case?—If he could not find an alternative Government.

5718. That would be a very strong measure to take, and would only be taken very occasionally?—A very strong measure, and I should hope rarely, if ever, exercised.

Marquess of Salisbury.] Of course, that is a matter of opinion.

Marquess of Reading.] May I suggest that something of the kind has actually taken place; the Secretary of State will be aware of it. It occurred in my time, and I think also in Lord Irwin's time, in which there was a difficulty in constituting Ministries in the particular Provinces for the purpose of administering the transferred subjects, and there was a breakdown in that sense, but as they had not a majority, no Ministry had a majority, in the end I think it was by order of the Governor-General, if I remember right; then the Governor would take control and did administer, and administered for some time. In my time, I remember it happened in two Provinces; one, I think, was in the Central Provinces, and the other was in Bengal; and in Lord Irwin's time, I think it happened also. It certainly did in those two Provinces in my time. There was no difficulty. If I may say so quite frankly, the only real difficulty we found was that there was no expansion of the development, because it was felt that dealing with it in that way, the Governor did not care to go into any matter, but just contented himself with administering to the best of his ability.

Marquess of Zetland.] He had the nucleus of an Executive Council at that time?

Marquess of Reading.] Certainly, it was so, I agree; but still the Governor had to act.

Lord Irwin.] Of course, with reference to what Lord Zetland has just said, in the same way in the future if this extreme situation developed, he would also

have the personnel of the several Departments; they would remain and, presumably, from them he might select persons to help him, if he so thought fit.

Marquess of Zetland.] Yes.

[Witness.] Perhaps, I might review in a sentence or two the kind of way in which I think the Governor will exercise his special responsibilities. I imagine that the Governor will keep in very close touch with what is happening over the whole field of Provincial administration. He will have at his disposal the officials to advise him, but what is much more important, I am contemplating that he will keep in very close touch with his Ministers and that there will not be this gulf between them, one side going one way and the other side the other; but that the Governor will be keeping in very close touch with them, and he will know some time in advance before a situation arises in which it might be necessary for him to exercise his special responsibilities; and, I believe, in that case, if the Governor is a sensible person and if the Ministers are sensible persons—and we have, after all, to assume a certain measure of commonsense in any proposal that we make—what the Governor would then do would be to talk over the situation with the appropriate Minister and, if necessary, with the Cabinet, and to get the Cabinet to so act as to prevent that situation arising at all. I believe myself that in ninety-nine cases out of one hundred, as a result of that kind of consultation and co-operation, the situation will not arise at all under which the Governor would have to intervene. If the situation does arise, then the Governor will have to take what action he thinks fit. He will have to give his direction to the Civil Service; he will have to give his direction, if necessary, to the Ministry, and if there is then a cleavage, it may lead to the Minister's resignation or dismissal. It may lead eventually to the Government resigning, to an election taking place, and eventually to a breakdown of the constitution altogether, and to the resumption by the Governor of full powers; but, I believe myself that that kind of contingency is very unlikely to happen. If it does happen, we have given both the Governor-General and the Governor full powers to deal with it; but we rely

very much upon a system of co-operation growing up between the Governor and his Ministers, under which the Ministers of their own initiative will take such action as to make it unnecessary for the Governor to intervene under his special responsibilities at all.

Sir Austen Chamberlain.

5719. Secretary of State, the Governor under the new system will have immense responsibilities, will he not?—Yes.

5720. It is common ground to us. I think, that he must be in a position to keep himself fully informed of what is going on, because in certain contingencies he himself might become personally responsible for action?—Yes.

5721. And unless he knows and is fully informed as to what is going on from day to day, those contingencies may come upon him by surprise and find him unprepared; that is common ground?—Yes.

5722. In those circumstances, can you develop at all the answer you gave to Lord Salisbury, that the Governor was to have whatever staff he required. I do not visualise the machinery through which the Governor is going to keep himself informed?—Generally speaking, I feel that he must have a definitely more expert staff than he has got at present, and I would suggest that you should put that question to Sir Malcolm Hailey, who will deal with it from his own practical experience. I would also suggest that it is very difficult to specify exactly what staff any Governor should have, for this reason: I should be surprised if Sir Malcolm Hailey did not say that a Governor in one Province would want a larger staff than he wants in another Province. That being so, it is very difficult for me to say more than that the Governor would have whatever staff is required for that Province, and under the White Paper we retain the power for ensuring that he should have an adequate staff; but I would suggest that Sir Malcolm should now develop it a little bit further from his own practical experience.

5723. If you please, do so, Sir Malcolm?—(Sir Malcolm Hailey.) I do feel the distinction will undoubtedly have to be drawn between the Presidencies and the other Provinces, because you have



coming to the Presidencies in the past, at all events, Governors who have not previously been acquainted with India. The personal staff of Governors at present consists of a Private Secretary, and in the Presidencies a Military Secretary, who deals mostly with social affairs. In the other Provinces you have a Private Secretary who is generally a Military Officer, and almost entirely deals with social affairs. I feel sure that in the Presidencies in the future you will have to have a Governor's Secretary, who will have to be a senior civilian practically of the same class, or the same standing, as officers who are now appointed Executive Councillors, or Members of the Board of Revenue. Without such an officer the Governor would be unable, at all events in the first instance, to keep himself in touch and fully informed of administrative matters. In the other Provinces it is possible that you need not have an officer quite so senior, but he should, at all events, be of a senior Collector's or Commissioner's rank, because one must anticipate that when the Governor is away on tour there will need to be somebody who can consult on his behalf with the Ministers, not in any definite and formal manner, but in case the Ministers wish anything to be brought specially to the Governor's notice. Also I assume that he will have to see various visitors officially, and otherwise, on the Governor's behalf. It is therefore necessary that he should be a man of experience. If, further than that, becomes incumbent on the Governor to take over any special branch of work in exercise of his special responsibilities, it is clear that he will need additional assistance. Take, for instance, the special branch in Bengal. At present that is entirely in charge of one Deputy Secretary. It is clear that the Governor if he had to take over that branch in an emergency would need a secretariat officer of his own in charge of it. Ordinarily, I do not think that he would need much further addition to his establishment other than clerical, but it might be in other Provinces that on special occasions, for instance, we will assume that a famine was on or there was a great deal of internal trouble of a communal nature, he might have to add to his secretariat staff. There would be more

people to see, and more work falling directly on him. He might, therefore, have to add an assistant to his Secretary. I assume that in the future he would have his own secretariat establishment. Now most of his work passes off to the Government secretariat. They keep most of his papers for him, and correspondence is conducted largely through them, say, personal correspondence with the Viceroy. Clearly in the future, as he has a special and individual position, he would have to have his own clerical staff, but that is a matter easily arranged and would not necessarily involve anything very much in addition to what he has at present. Quite clearly if he has to correspond with the Governor General on the action of his Ministers that could not go in to the General Secretariat. That is the kind of staff that personally, I think, would suit the occasion or the needs of the new Constitution. Provision is made in paragraph 65 of the proposals for his personal and secretarial staff which would be fixed by Order in Council. That would not in itself apparently apply to any special staff that he might have to engage on occasions, and he would have to find that through the powers given him in paragraph 98. But it is just possible that that point that I have raised in regard to paragraph 65 might need to be looked at on the matter of drafting afterwards. It is, however, only a minor point.

5724. What is the part of paragraph 98 to which you are particularly referring us? Is it sub-paragraph (2)? —(Sir *Samuel Hoare*.) Yes, it is sub-paragraph (2). (Sir *Malcolm Hailey*.) Sub-paragraph (2). There again it is just possible that the wording of that might need to be altered in order to make it clear what "personal or secretarial staff" meant; but that is only a matter of drafting.

5725. Secretary of State, I will come to another subject. It is provided by the White Paper that Ministers must be or become within six months, I think it is, Members of the Legislature. Have you considered whether it might not be convenient, at any rate, at this stage of development of the Constitution to enable the Governor to appoint a Minister with the good will of his

colleagues who had not obtained a seat in the Legislature ; who would have no right to vote, but to whom might be accorded the right of speech in the Legislative Chamber ?—(Sir *Samuel Hoare*.) My difficulty is the difficulty of the Cabinet's responsibility, and I do not quite see how such a Minister would fit into a Cabinet of which all the other Ministers were responsible to the Legislature. I would have thought it was better to give the Governor, as we have given the Governor, power to make an appointment for an emergency. Under the White Paper proposals a Minister has to be a Member of one or other House only after a period. We had in mind an emergency in which it might be necessary for the Governor to make an emergency appointment. When the emergency comes to an end I would have thought that, looking at the whole picture, there was more to be gained by making the Cabinet as responsible as possible, and that if it was a case of a Minister who either did not wish to face an election, or was not likely to be returned in an election, then I should have thought anyhow in Provinces where there is a Second Chamber, that the Governor might have, with the approval it may be of his Cabinet, nominated him as a Member of the Second Chamber. I agree the difficulty is where there is no Second Chamber.

5726. Exactly, but would you address your mind to that point ? If there were a Second Chamber in every Province I do not think I should feel the difficulty, but here under our own Constitution it is found convenient (it is indeed statutorily necessary) that certain Members of the Government should be appointed from a non-elected House, and should not submit themselves to election, and yet that does not interfere with the common responsibility of the Cabinet to the Legislature ?—I would admit that there is a great deal to be said for Sir Austen Chamberlain's suggestion. The trouble is the difficulty it may make with the Government as a whole, and, in my own mind, setting one against the other, I have thought that it is better not to have a Minister of this kind, the more so, as I think it is in those Provinces in which there is to be a Second Chamber, or in which we contemplate a Second Chamber, that

Sir Austen would most wish to see a minister of that kind.

5727. May I try and make my meaning a little clearer ? I am not contemplating that this power would be used to introduce into the Government a discordant element, but that it might be agreeable to the elected Ministers that there should be one among their number who had not obtained a seat, and who, perhaps, might find it difficult or inconvenient to obtain one. Our own constitution provides for that ?—Let me clear upon this point : Does Sir Austen contemplate that a Minister of this kind should be appointed on the advice of the Provincial Ministry, or at the discretion of the Governor ?

5728. What was in my mind was that it might be found practically desirable to have a man as Minister who, for some reason or another, did not obtain an elective seat in a single Chamber Province ; that that might be equally desired by the Ministers and the Governor, but that under the White Paper, even though they wished it, it was not permitted ?—Then I do understand, do I not, Sir Austen to mean that an appointment of this kind would be made on the advice of the Ministers ?

5729. To the extent to which the advice of the Ministers is governed by the choice of the Ministers ?—I see what you mean. I think in my own mind I would say at once it would make a great difference to my point of view whether an appointment of that kind was made on the advice of the Ministers, or at the sole discretion of the Governor, and I should like to think of the suggestion further.

5730. Thank you. Perhaps at a later stage you would think it over in that form and tell me whether you would be inclined to favour it or not ?—Yes.

Archbishop of Canterbury.

5731. Would the Secretary of State agree, in view of what has been said, that that constitutes *prima facie*, apart from other considerations, a very strong reason for having Second Chambers in all Provinces ?—I would not like to draw a general conclusion from an argument of that kind. There are other considerations about Second Chambers that enter into the question anyhow in some of the Provinces.

Sir *Austen Chamberlain*.] That was the point, your Grace, that I was just coming to.

Lord *Eustace Percy*.

5732. I do not quite understand the connection in the Secretary of State's mind between the fact of a non-elected Minister, and the question of responsibility. Under the French Constitution, for instance, Ministers are specifically declared to be individually and collectively responsible, but communally, both the Minister of War and the Minister of Marine are not Members of either branch of the Legislature, and that does not affect their responsibility to the Legislature in any way?—I would have thought that we have to keep in mind the general procedure that has grown up in the British Empire and the views that people generally in the British Empire hold of responsibility, and the position of members. I quite admit that if we had no background to these questions Lord Eustace's suggestion might carry a great deal of weight with me, but, looking at the whole history of collective responsibility and Ministerial responsibility, as we think of it here, and as I believe a great many politically-minded Indians think of it, I cannot help thinking that that does introduce an element that would seem new to many Indians, and to many of us, and that might create a good deal of suspicion in the Ministry itself, and in the Assembly itself, and might make it more difficult for the Constitution to work. I do not put it higher than that.

Sir *Austen Chamberlain*.] You see Secretary of State, that, as far as I am concerned, I am only suggesting that there should be open to Indians that which is open to any Prime Minister forming a Government in this country.

Lord *Eustace Percy*.] Or in any Dominion?

Sir *Austen Chamberlain*.

5733. For my purpose it is sufficient for me to say in this country, and in the Mother of Parliaments, it is possible for the Prime Minister to secure the services of a man in this country without that man having to undergo election, and I want the Secretary of State, if he will (he has promised to

consider the matter) to consider whether that is not a convenience that ought to be at the disposal of an Indian Government?—Yes, I will certainly consider the point further, and, if I may, I would suggest to the Indian Delegates, perhaps they would give their minds to it also, assuming, as I think Sir Austen has assumed, that an appointment of that kind would be made on the advice of the Ministers.

5734. Yes, I am quite ready to put my question on that assumption?—Yes.

5735. Secretary of State, may I now ask you to state as briefly as you can what are the reasons beyond the question of expense, that have deterred you from proposing a Second Chamber in all Provinces?—Apart from expense I should put the reasons, I think, in the following order: First of all, there is public opinion to be taken into account, and it is a fact (I do not say that it should be a final reason for any decision that we may take) that certain Provinces appear to be definitely against Second Chambers. Secondly, there is the question of finding personnel for all these various Assemblies. India is a very big Continent geographically, but, without any disparagement to Indian political talent anywhere, I would say that in the comparatively early chapters of Constitutional development in India it is difficult to find men who have the ability and the leisure to fill a great many Councils and Assemblies. Thirdly, I would say (here again, I hope, without any offence to any of the Indian delegates) that communal questions complicate the problem. When one has got a decision about communal questions by the First Chambers, one does not want to have the added complications of communal decisions by the Second Chambers as well. That may sound to be rather a cowardly reason for me to give, but it must be taken into account that more than one of the Provinces in India is looking at the question of Second Chambers very much through communal spectacles, and that is a consideration that has got to be taken into account.

5736. Would you agree that if you found it possible to overcome those difficulties the existence of a Second Chamber in every case would go some way to allay doubts that are felt about the

institution of the new Constitution. In much older countries where Constitutions have been working for a long time, the Second Chamber frequently gives a stability and balance to the Constitution which is recognised as very valuable, and does not it seem to you strange that in making this new experiment in surroundings unaccustomed to it, you should omit a safeguard of that kind?—I think Sir Austen must remember that the constitution is somewhat different under a Federal Government; that in the case of a Federal Government there are the two Chambers at the Federal centre, and these Governments are not the kind of sovereign Governments in which the case for Second Chambers is almost unanswerable. But when Sir Austen presses me further I would certainly say, as a Conservative, I would much prefer to see Second Chambers; but I would also say (and I would ask the Indian delegates to take this point into account) that in my opinion public opinion here would be definitely more reassured if there were Second Chambers.

*Mr. Morgan Jones.*

5737. Some public opinion?—I must perhaps restrict that general statement within the limits that the representatives of the Labour Party would desire to apply to it.

*Sir Austen Chamberlain.*

5738. That is all I want to ask on that subject. I turn now to Law and Order—that thorny subject. One argument for transferring Law and Order is the hope that it will bring a sense of responsibility to Ministers, and, through them, to the Legislature and the people. Is that not so?—Yes.

5739. Can you realise that hope, if it is possible that Law and Order should be the personal responsibility of one Minister only, and not the collective responsibility of the Cabinet?—No. I should very much hope that it would be the collective responsibility of the Cabinet. What I ventured to say at the beginning of my evidence to-day was not intended to imply that I am not strongly in favour of collective responsibility, but that I thought it was very difficult to prescribe it in so many words in the conditions of India, in

an Act of Parliament. I want to see collective responsibility.

5740. The difficulty, as I understand, arises in your mind from the communal differences that exist there?—Yes, to a certain point, and also because I believe these things develop better by growth, and with a certain latitude, than if you try to specify them at the beginning in Acts of Parliament.

5741. I will try to put my fear into words: That the Minister, who, I presume, would be called the Home Minister in a provincial government, entrusted with Law and Order, would be apt to become a pariah among his colleagues, or a scapegoat?—I would hope not. Sir Austen, I think, will agree with me when I say that, even amongst the Ministers who may not appear at the beginning to agree about everything, a common feeling does grow up in the course of the lifetime of a Cabinet, and Cabinets do cling together a great deal more definitely and closely than people outside often realise.

5742. Great anxiety has been expressed by some of our Witnesses, and I think has been indicated by some Members of this Committee, about the preservation of the discipline of the Police when Law and Order is transferred. I am speaking of the Witnesses who accept the principle of the transfer of Law and Order, but are particularly anxious that the Chief of Police should be protected against interference in the daily administration of the Force, interference with discipline and the ordinary postings and promotions. Have you any protection to suggest against an abuse of that kind?—If Sir Austen Chamberlain would look at page 24 of the Introduction to the White Paper, and the second paragraph, 47, he will see that we do very much contemplate the necessity of giving the Governor the power to prevent that kind of interference in the daily administration of the Police that would break the morale of the Police; but here again, we felt, rightly or wrongly, that it is wiser to proceed by giving the Governor-General powers rather than by giving him explicit powers that might, indeed, be inadequate; it is always a danger of stating things explicitly; and might, or perhaps would, create suspicion between him and his Government, and make his

Government think that, while we had transferred Law and Order with one hand, we had withdrawn it with the other. But we do quite definitely contemplate the Governor intervening if he feels that the morale of the Police is being broken down and that the instrument upon which he would depend in the ultimate resort for carrying out his special responsibilities was thereby being destroyed; and if I was an Indian Minister, I would welcome any arrangements that made it impossible for me, as a Minister, to intervene with the detailed questions of promotions and postings in the Police service. I think without that kind of safeguard an Indian Minister's life, if politics were in any way similar in India to what they were here, would be made quite impossible.

5743. Do I understand that you think that, in pursuance of the paragraph to which you have referred, the Governor would make regulations on that subject, very likely with the good will of his Ministers, which would at once protect them and the Police Force?—Yes, I think so certainly; and I think also that arrangements would have to be made under which the Police rules and the Police Act would be withdrawn from political intervention. It is a complicated question, because the Police Act is a comparatively short and simple Act, and most of the administrative features of the Police administration in India are included in the rules. I think, perhaps, it would be a good thing if Sir Malcolm would amplify my answer from his own experience upon those points.

*Marquess of Zetland.*

5744. Before Sir Malcolm answers, my Lord Chairman, might I ask one question which would probably clarify the matter? Under the proposals in the White Paper, and particularly under Proposal 69, would it be open to a Governor to lay down, under the rules of business, this condition: That rules made under the Police Acts, that is to say, the Police Act of 1860 and the Police Acts of Bengal, Madras and Bombay, could not be altered without his sanction?—I am not sure whether, under the White Paper proposals, such a power is included. The Governor could certainly see the Police rules, but there is no specific proposal under which they would need

his previous sanction for alterations, Lord Zetland will appreciate that the difficulty with the Police rules is that they do cover such an immensely wide field. There are quantities of Police rules (Sir Malcolm Hailey must correct me, if I am wrong) which really do not matter very much from the point of view which, I think, is in Lord Zetland's mind; but Lord Zetland is thinking of important changes in the Police rules that might endanger the morale of the Police. Certainly, as the White Paper is drafted at present, there is no specific proposal of the previous sanction of the Governor to changes of those rules.

*Sir Austen Chamberlain.*

5745. That really brings me straight to the direct question I want to put: Have you considered whether it is or is not necessary to amend the White Paper in that respect, and to make some regulation by which the Police Acts and the rules cannot be altered without the sanction of the Governor, as has been suggested by several of our witnesses?—Yes, Sir Austen, we have contemplated that the Governor would intervene under his special responsibilities. We have not contemplated intervention outside that field.

5746. I put it to you that it is undesirable to have recourse more often than is necessary to special responsibilities and breakdown clauses. What we want to do is to protect the daily working, so that it may not be necessary to have recourse to those extraordinary powers?—I would like to think further over Sir Austen's suggestion. I hope he will keep in mind the point that I have just made to Lord Zetland, namely, that the Police rules are almost endless volumes of rules covering a generation of years, and it is very difficult to exclude a great body of detailed administration rules of that kind from the ordinary day to day administration of the Police Force; but I think I see what is in Sir Austen's mind, and if I may think it over further, I would like to do so.

5747. Then I think I need not, as far as I am concerned, ask Sir Malcolm for a further answer?—(Sir William Malcolm Hailey.) All the rules under the Police Acts are made with the approval of the Government, and it is a fact, as the Secretary of State has said, that the Police

manuals do contain a vast amount of rules of minor importance, as well as some of those of the first importance. It will be necessary, first of all, on such a proposal as Sir Austen suggested, to schedule the rules which would be considered Governor's rules, separate them off from the rest of the manual. That could be done, because we have done something very much of the same kind with regard to rules under the Prisons Act. Under that suggestion, therefore, you would have Governor's rules which would only be made with the sanction of the Governor, and the remaining administrative rules which would be made in the ordinary course by the Inspector-General, with the general approval of the Government. It would not be impossible to separate the two, if you thought fit.

Sir *Austen Chamberlain*.] I am grateful for that answer ; it is important.

Archbishop of *Canterbury*.

5748. You said, Sir Malcolm, that rules could be made which would be called Governor's rules, which would require the special sanction of the Governor before they were made. That, of course, would apply to any alteration in the rules ?—Yes, certainly. I have only given the words "Governor's rules," just for the purpose of the question ; it might be possible to find a better name for them ; but there would be two classes of rules.

Sir *Austen Chamberlain*.

5749. One question on another subject. Turning to the Courts, and desiring, as you have already expressed your desire, to protect the administration of justice and also to protect Ministers against pressure for patronage, have you considered making appointments in the Magistracy depend, and the Courts depend, upon the High Court, instead of directly upon a Minister ?—(Sir *Samuel Hoare*.) Yes ; we have considered a proposal of that kind, and there is a good deal to be said for it. One of the difficulties is the difficulty, at any rate, in the lower judicial ranks, of the amalgamation of the judicial and the administrative functions of the Government ; the separation of the two is a question that has very often been discussed and for which there is a great deal to be said.

At the same time, there is the administrative difficulty and there is the difficulty of expense. In the lower ranks of the judicial administration there are officials who are doing both administrative and judicial work, and one has got to keep that fact in mind. Keeping that fact in mind, we did not feel that we could go further than we have gone in the White Paper ; but I would certainly be the last person to suggest that there is not a field for discussion and difference of opinion upon questions of this kind. I think it might be worth while hearing Sir Malcolm's view upon the point. (Sir *Malcolm Hailey*.) Sir Austen was dealing with the Magistracy. One can exclude, for the moment, all questions connected with the civil judiciary, the district judges, subordinate judges and munsifs, and confine oneself entirely to the Magistracy. The Magistracy are purely criminal, our judiciary, has, of course, these two definite sides ; the civil side running through district judges, subordinate judges and munsifs ; their appointment, control, etc., forms a somewhat different question, which I have no doubt, will be subsequently raised in the Select Committee—

5750. May I at this point interrupt you to say that your difficulty arises, not in regard to those classes you have named, but to the other classes which you are coming to ?—Yes. I am putting aside for the moment all questions connected with the administration of civil law and am only concerned at the moment with the administration of the criminal law. The great mass of criminal work is done, in the first instance, by magistrates, both stipendiary and honorary. The magistrate, in most cases, is an Executive Officer to whom is given magisterial functions, sometimes also, revenue functions. He is under the control, for administrative purposes, of the District Magistrate, though, of course, for purely judicial purposes, questions of revision, appeal, and so forth, his work goes to the High Court. Now the present system is that these magistrates are appointed by the Local Government ; they are Provincial Service Officers ; their method of appointment at present is, either by competitive examination or by nomination, after consultation with a Public Service Commission. Under the White Paper proposals if the appointment

were by the local Government, that would presumably be a ministerial function. The difficulty of providing that they should be appointed by and come under the entire administration of the High Court, as indeed do the establishment carrying out the civil law, is their combination of functions. You would have to separate their functions entirely before it would be possible to bring the criminal magistracy entirely under the High Court, that is to say, instead of the local Government appointing them being in charge of their discipline, transferring them, and the like, as at present, because they have these mixed functions, you would have to have a separate body of men carrying out magisterial work entirely and therefore entirely under the High Court. There would be a very considerable addition of expense. Of course, also, controversial questions do arise, upon which very differing opinions have been held, as to how far it would be to the real interests of the Executive to separate Executive and Judicial criminal functions. If I might say so, I think that is one of the questions which the Government of the future will have to solve. There would be in the proposals as they stand, power for the Governments of the future to solve that question. They would have to solve it both on the financial and on the administrative side. They would have to make up their minds whether the extra expenditure involved would be too much. They would also have to make up their minds whether it would be possible to ensure the general peace of the country as well under a system by which all the magistracy is brought under the High Court as under a system in which the subordinate magistracy is directed by the District Magistrate. That is to say, it is he who would direct them, whether orders are to be issued under the preventive sections if communal trouble was arising, and it is he also who assigns particular work to them; distributes the class of cases they are to try. Those are two competing systems, the merits of which would have to be worked out by the Governments in the future.

Marquess of Zetland.

5751. On that point, may I ask Sir Malcolm Hailey, supposing the Execu-

tive and Judicial functions were separated, what would be the position of the District Magistrate?—The District Magistrate then on his magisterial side—I mean, in the exercise of his powers under the preventive sections or the distribution of work to his subordinate magistrates—would necessarily come under the High Court.

5752. I see; but you still have one officer at the head of the district who would remain the District Magistrate?—Yes.

5753. But he would be under two different authorities?—He would.

5754. Under the Government, and as far as his magisterial work was concerned, under the High Court?—Yes, that is one of your great difficulties about complete separation.

Lord Hardinge of Penshurst.

5755. In Article 69 authority is given to the Governor after consultation with his Ministers to make at his discretion any rules requisite for the disposal of Government business. Would he still be able to do as he pleases if after consultation with his Ministers he found himself in conflict with them?—(Sir Samuel Hoare.) I did not quite catch that.

5756. Would he be able to give directions for the administration and disposal of Government business if, after consultation with his Ministers, as is prescribed in this rule, he found himself in direct conflict with all his Ministers?—Yes.

Lord Hardinge of Penshurst.] That is what I wanted to know.

Earl of Derby.

5757. Sir Malcolm Hailey, I should like to ask you one question. You mentioned that there should be a Governor's Secretary. Who would appoint that Secretary?—(Sir Malcolm Hailey.) The Governor.

5758. And it would be only for the lifetime of that governorship?—Yes, it would be a personal appointment just as is his private secretary at present.

5759. From the Indian Civil Service?—I contemplate that he would almost always be taken from the Indian Civil Service, but there would nothing to prevent him taking any other officer of

government or, indeed, an officer from outside government, if he thought it better to do so ; but I think it might be taken for granted that as that officer is there to supply him with the local knowledge he does not possess himself, it would be inevitable that he should take him from one of our Indian Services.

5760. And that secretary would be responsible to the Governor and to nobody else ?—Yes, purely.

Major *Cadogan*.

5761. Would not his pay be subject to the Vote of the Legislature ?—(Sir *Samuel Hoare*.) No. That is already provided for in Article 98.

Sir *Tej Bahadur Sapru*.

5762. Article 96 (b) ?—96 (b) and 98 (v) give you that.

Lord *Hutchison of Montrose*.

5763. There is one question I would like to clear my mind on and that is this : A Governor has on going out his Instrument of Instructions which are passed by the two Houses of Parliament, just the same as the Constitution Act will be, but under his special responsibilities the Governor is under directions by the Governor-General. It says so in paragraph 47 of the Introduction to the White Paper, in which it says at the top of page 24 : "an item relating to the execution of orders passed by the Governor-General." In running his Province, if and when a breakdown or a taking over of Law and Order by a Governor comes about, that Governor would be, to some extent, under the orders of the Governor-General. To what extent is the Governor-General thereby under orders from the Secretary of State at home ?—Constitutionally he is directly under the orders of the Secretary of State.

5764. Arising from that, a Secretary of State could give directions to the Governor as to how he would carry out certain arrangements under his taking over Law and Order ?—Constitutionally, yes.

Mr. *Cocks*.

5765. Sir *Samuel Hoare*, as far as Article 61 is concerned, you know the

proposal which has been made by Pandit Nanak Chand to divide the Punjab so as to allow the Muhammadan part of the Punjab to join up with the North West Frontier and the other part with the United Provinces. Do you agree with that ?—This is a very old proposal that has been made now, as to whether the Punjab should be divided, taking off the more predominantly Hindu tracts and leaving the part of the Province that is more definitely Muslim. As Sir *Malcolm Hailey* will no doubt say, this is a question that has been discussed over and over again. We discussed it at the First Round Table Conference, and, although there may be good arguments to be made in favour of it, one very strong argument to be made against it is that it has got very few friends, and we came to the conclusion that whatever might be its merits or its demerits, it was not a question of practical politics at the present time.

5766. Do you favour, or contemplate, setting up a Boundaries Commission as recommended by the Simon Commission ?—A Boundaries Commission for what ?

5767. The Simon Commission recommended the setting up of a Boundaries Commission (they say it is an urgent matter) to investigate the main cases in which Provincial readjustments might be called for ?—I would very much hope that we should not have a Boundaries Commission. I would not like to pre-judge the decision at all now, but I do not want these constitutional questions to get confused in a maze of disputes about frontier delimitations. We have dealt with the two most urgent questions of Provincial redistribution by dealing with Sind and Orissa, and I very much hope we are not going to get into an endless dispute about the boundaries of every other Province in India.

5768. With regard to the appointment of a Governor, is it contemplated in future sending a distinguished gentleman from England or continuing the practice of Civil Servant Governors ?—We wish to keep our hands absolutely free.

5769. We have had some discussions about the collective responsibility of Ministers, and it is mentioned in so many words in Article 67. I understand that the proposal is that the Governor shall choose the Ministers after consultation



with the Minister who is likely to command the largest following. What is the objection to the Governor calling upon this leading man, the proposed chief Minister, and asking him to form a Ministry and to form a Government and to submit a list of names to him for his approval as is done in England?—I imagine, in practice, that is sometimes what will happen, but again I think that is the best way to start, leaving latitude in the matter and keeping in mind the fact that the Governor has a special responsibility which distinguishes his position from the position of the Sovereign in this country, namely, that he is called upon to see that minorities are represented in the government.

5770. A Minister might select a member of a minority in order to get the support of the minority group?—I think very likely.

5771. Are you in favour of the suggestion made in the Simon Report that there might also be appointed certain under-secretaries?—I should not like to give an opinion upon an administrative point of that kind. Here again I would rather leave latitude. I think it will vary from Province to Province.

5772. The same Report, you will remember, was of the opinion that that might ease the communal tension by appointing an under-secretary of a different community from that of the Minister?—I do not think one wants to tie the Provincial Governments up too much nor again does one want to involve them in avoidable expenditure. I would rather let them judge of the merits of the thing in the Province itself.

5773. Something was said early on about the Governor's secretary. Would that be an official whom the Simon Report calls a Secretary to the Cabinet?—No.

5774. Would you be in favour of having that Secretary of the Cabinet as well to keep the Governor informed if he was not present at everything that happened?—I think I would like Sir Malcolm Hailey to deal with this question. My own view is that at any rate in some of the Provinces the Cabinet would not need a whole-time official for work of that kind. If they need a whole-time official by all means let them have one. (Sir *Malcolm Hailey*.) It was put forward in the Simon Report,

of course as being necessary in order to keep the Governor fully informed of all the proceedings of the Cabinet, and it has been proposed in various quarters that that Cabinet Secretary should have a definite access to the Governor for that purpose. I think most of us now feel that there really would be very little room for an official of that type. He would not have enough to do, and I think most Governors would be perfectly prepared to accept from their Cabinets their own summary of proceedings, and that it would be quite unnecessary to have a separate official for that purpose.

5775. Coming to the question of special responsibilities, Sir Samuel, take (a), the first one, the prevention of any grave menace to the peace or tranquillity of a Province. Do you suggest this should be limited to crimes of violence?—(Sir *Samuel Hoare*.) No. As the Committee will see, we have left it in general terms of this kind. We think that it is safer to leave it in general terms of this kind, and the more you try to define it more exactly, the greater the difficulties in which you involve yourselves. Here, again, it is the old issue between stating a thing in detail explicitly or stating it in more general terms. We have chosen the alternative of stating it in more general terms.

5776. I think it was Sir Tej Sapru who suggested an additional form of words, saying "arising out of the activities of any person or persons or association tending to crimes of violence." But you would object to that, would you?—Yes; I greatly prefer the words as they are now. I think the more you try to define them further, the more you will be driven into setting out a lot of explicit reservations of various kinds, and in the end from the point of view of Indian public opinion the reservation will look more formidable than it does now, whereas from the point of view of administrative efficiency and ensuring the Governor the power of intervening at proper times, you might find that your definition has tied his hands just in the very way in which you do not wish to tie his hands.

5777. What I am thinking about is certain legislation such as land legislation and other subjects which have been

mentioned, which somebody might see as constituting a grave menace. The Governor might often step in and prevent the Minister who was in charge of that from proceeding with it?—I think that if I may say so, is exactly the kind of case that must be judged upon its own merits. It may well be that neither land nor social legislation of any kind has any likelihood of creating the kind of situation in which the Governor is expected to intervene. On the other hand, you might have extreme forms of legislation of that kind that were likely to plunge the Province into revolution.

5778. It seems to me that if it were not used with the very greatest discretion it would be cutting almost at the root of responsible government?—There is no intention whatever of doing any such thing, and we assume that the Governor would be a sensible person and we assume also that he would wish the Cabinet to remain responsible over the field of responsibility, and that he would only intervene in the last resort, and there is no intention whatever under any one of these safeguards of preventing the introduction of legitimate social and economic legislation.

5779. Under D, the prevention of commercial discrimination, is not really safeguarded sufficiently by paragraphs 122 and 123?—No, because paragraphs 122 and 123 deal with the field of legislation. The equally important field of administration has got to be dealt with, and we deal with it under 70.

5780. That does not refer to legislation at all, I take it?—It is administration that is mainly in mind.

5781. The protection of the rights of any Indian State. What is exactly meant by that, beyond the Federal rights which are safeguarded by the Constitution?—I am quite ready to answer a question of that kind, but it does seem to me that it raises a lot of these questions with the States and the Governor-General rather than the questions of the Provinces. I am in the hands of the Committee. I would add this to my answer. There is a point here that does directly concern the Provinces. The kind of case we had in mind was the need for intervention, supposing, within a Province, a movement was growing up such as the kind of movement of which we have had ex-

amples, in which large bodies of a particular community, or a particular mode of thought, march in from the Province into a neighbouring State and stir up trouble in the State. In cases of that kind we felt there ought to be power to prevent such a movement of that kind, endangering the stability of an Indian State.

5782. The last one is, securing the execution of orders lawfully issued by the Governor-General; does that mean anything more than the orders issued by the Governor-General in the discharge of his special responsibilities?—Yes; it includes the orders under the field of special responsibilities and also orders under the Federal field as well. If Mr. Cocks will look at paragraphs 125 and 126, he will see it is intended to deal with the contingencies covered in those paragraphs, too.

5783. In No. 73, dealing with the Instrument of Instructions, you mentioned twice directions from the Governor-General or "from one of Our Principal Secretaries of State." I only want to ask you this: Is it in your mind, or intended, that more and more the Secretary of State should depend upon the discretion of the Governor-General?—I do not think, constitutionally, anybody could admit that. The Governor-General has got to be responsible to somebody, whatever his powers are, and he must, therefore, be responsible to Parliament through a Minister. I can quite imagine that in the course of Indian developments, Indian opinion, through the Governor-General, will more and more carry weight in Whitehall and Westminster, but one cannot say more than that.

5784. There is one point, and I am rather interested to know what it exactly means. In paragraph 95 you say: "A recommendation of the Governor will be required for any proposal in the Provincial Legislature for the imposition of taxation, for the appropriation of public revenues," etc. In paragraph 45, in the footnote, you say that it justly represents the Constitutional principle embodied in Standing Order 66 of the House of Commons. I want to know whether, in paragraph 95, that is meant to be merely a formal thing, as it is in the House of Commons—that is to say,

no Private Member can initiate taxation, but it is really the Government who does that. In paragraph 95, do you mean it is to be a formal thing on the part of the Governor, representing the views of the Ministry, or does it mean that the Ministry cannot propose any taxation without the consent of the Governor?—No. This does not mean any more than the procedure here. It means that no Private Member can introduce a proposal for a financial grant. It means no more than that. The Governor would be acting here upon the advice of his Ministers.

Lord Snell.

5785. My Lord Chairman, most of the questions I desired to ask have been covered, but if I might ask Sir Malcolm Hailey to clear up one point of doubt, I understood him to say, in regard to the possible need for a Secretariat by the Governor, that such appointments would be made from the Indian Civil Service. I wanted to ask whether it is his view that such appointments should be restricted to British members of the Indian Civil Service?—(Sir *Malcolm Hailey*.) Oh, no, Sir, I did not imply that in any way. When we speak of the Indian Civil Service, we always speak of it as combining both Indians and Europeans. We draw no distinction. In the case of our Secretariat, at present, when we appoint a Secretary, he may be an Indian or a European, naturally.

Major Atlee.

5786. With regard to the Second Chamber, the point in the Second Chamber is that it should be a body with a high qualification and generally conservative. Is that not so?—(Sir *Samuel Hoare*.) It should represent the more conservative elements in the Province.

5787. And it has equal powers with the Lower House?—Under the present proposals in the White Paper, the two Federal Chambers have equal powers; substantially, the powers are equal.

5788. And if they differ, they go into joint Session?—Yes.

5789. That will almost certainly ensure a Conservative predominance in those Councils, will it not?—No, I should not say that.

5790. In the joint Legislature, that is to say. You would have a predominantly Conservative Upper House?—I should be very much surprised if, in any of these Provincial Assemblies, you had voting by solid blocks of that kind, when you take into account the differences, communal and otherwise, in the Provinces.

5791. On a question of a difference of economic interest, the tendency would be that the richer people will have a predominating power, where there is a Second Chamber?—I suppose, generally speaking, that might be true, but an accurate answer would have to depend on the constitution of the Chamber. It depends entirely how you form the Second Chamber.

5792. I am taking it as indicated in the White Paper: certain nominees and a high property qualification for a considerable proportion, as set out in the Appendix?—Yes, the Appendix on page 92.

5793. You will find the qualifications set out rather later, I think, on page 113: "High property qualifications; service in distinguished public offices." That essentially means money and age really, broadly speaking?—If you look at the Appendix on page 92, you will see the suggestions that we make for Bengal and the United Provinces and Bihar.

5794. Quite. A further point on Second Chambers. Is it contemplated that where there are Second Chambers, the Ministers should be drawn from either House?—Yes.

5795. Will they have the right of speaking in both Houses?—Yes, we contemplate they should.

5796. That is not specifically stated in the White Paper, is it?—We have put it in for the Federal Chamber; we may not have put it in for the Provincial Second Chambers.

5797. I think not?—No. I am inclined to think—I do not put it higher than that—that it is a good plan that they should.

5798. Otherwise, you would have a very small Government Bench in one or other House?—Yes, as sometimes happens in other countries.

5799. You have not laid it down, as you say, with regard to the number of

Ministers, but is it not a fact that there is rather a paucity of leaves and fishes at the present moment in the Provinces?—Yes. At the same time you have got to consider also the very important aspects of expense, and the danger of adding to the overhead charges of any of these Governments.

5800. The basket is small, but the question is as to its working. One further question. You were asked with regard to having appointments made by the High Court instead of Ministers?—Yes.

5801. Is there any reason to think that those would necessarily be better made by the judiciary than by Ministers?—(Sir *Malcolm Hailey*.) I think, Sir, that the present procedure,

by which the Provincial Governments always take the advice of a Public Service Commission before making nomination, would, probably, be followed by the High Court also. In that case, I think the class of man that you got would be very much the same in both cases. If I might say so, the real question at issue is one of control, rather than of original recruitment.

5802. The only point is if the Secretary of State would study the experience in this country of the appointments made by judges, he would find a remarkable correspondence in those appointed with the nomenclature of the judiciary of the last fifty years?—(Sir *Samuel Hoare*.) We will keep Major Attlee's point in mind when we consider this question further.

(After a short adjournment.)

Mr. *Morgan Jones*.] I understand we are limiting our questions this afternoon to the Provinces?

Chairman.] If you please.

Mr. *Morgan Jones*.] And you desire any questions on finance relating to the Provinces to be postponed.

Chairman.

5803. Any questions relating to finance which can better be dealt with after the Secretary of State has given his evidence on Sir *Malcolm's* Memorandum?—(Sir *Samuel Hoare*.) It would help very much when we come to our discussion on finance, which is an extremely intricate and complicated subject, if any Members who felt inclined could give me detailed notice of any questions that they intend to raise; otherwise it is such a complicated question that there might be delay in my giving an answer.

Mr. *Morgan Jones*.

5804. I want to ask one or two questions only on this part of the subject. Am I right in assuming that, generally speaking, the powers of the Governor in the Province will be similar to those of the Governor-General?—Yes, with these two exceptions; first of all, the Governor-General has got his power for his Reserved Departments. In the case of the Provinces there are no Reserved Departments. Secondly, the Governor-

General has a special responsibility for maintaining the financial credit and stability of India. There is no such power in the case of the Provinces.

5805. Anyhow they are alike in this, may I take it, Sir *Samuel*, that at any given moment when the Provincial Assembly is discussing a Bill it is possible for the Governor to intervene at any stage when he may think fit, and order the Bill to be withdrawn, or to be amended in a way which he may desire?—If it trenches upon the field of special responsibilities.

5806. Yes, but do I understand that, subject to that limitation, the Provincial Assembly will be free to legislate as it thinks fit, subject to the ultimate veto of the Governor?—Yes, and subject also to its legislating in the Provincial field and keeping out of the Federal field.

5807. Yes, I quite appreciate that. The field of limitation, in respect of the Provinces, is very narrow, I believe?—No, I should say it was very wide.

5808. Perhaps we both mean the same thing; we may be using the words in a different way. I mean that the number of subjects in relation to which the Governor may intervene is very narrow?—Yes, I see; it is the limited field set out in the list of special responsibilities.

5809. Do I understand, Sir *Samuel*, that it is regarded as a desirable thing

for the Governor to possess powers to intervene at a stage of that sort? Would not you take the view that it would be far more desirable, if he should be endowed with powers at all, that he should have the right to veto the introduction of the Bill rather than that he should have the right to intervene at any particular stage of the Bill?—It is very difficult to make an exact definition. It is so difficult to contemplate every kind of situation. The position would be as Mr. Morgan Jones with his Parliamentary experience will see, that a Bill may be introduced perfectly harmless in form, and then during the course of the discussions a very dangerous amendment may be introduced and added to the Bill which would give rise to grave unrest. It is that kind of contingency that we have in mind.

5810. I see. Will Sir Samuel be good enough to look at paragraph 122? I ask for information only. What precisely is intended by paragraph 122?—I am quite ready to answer this question, but I would suggest that we might deal with the questions of commercial discrimination more specifically, but, if Mr. Morgan Jones would like to ask the question, I will answer it.

5811. I appreciated before I asked the question that it might properly belong to another portion of our discussion, but it does deal with the question of legislative power, but, if you prefer it, I am quite ready to leave it?—Whichever you like. Commercial discrimination is one of the bigger issues, and I thought it might be better to deal with that rather more specifically. I do not mind as far as I am concerned.

*Chairman.*] Mr. Morgan Jones will know better than I do what he is leading up to.

*Mr. Morgan Jones.*

5812. I simply asked as a matter of interpretation of the clause, and I am quite prepared to leave it to another stage, if it is more convenient to Sir Samuel?—I think it is a question that is really better discussed in connection with the Governor-General's powers. I think it might be better discussed more specifically.

*Mr. Morgan Jones.*] It applies to both Assemblies, both Federal and Provincial, I quite agree.

*Lord Eustace Percy.*

5813. Secretary of State, could you tell the Committee quite briefly on what general grounds the Government decided not to accept what I think was the recommendation of the Statutory Commission, that the High Courts of the Provinces should be federalised and placed under the Central Government?—Here again, I was rather assuming that we should go more specifically into questions connected with the Judicature, but to give an answer in a single sentence to Lord Eustace, my answer would be that it is our general desire to give as full autonomy to the Provincial Governments as we can. The Provincial Governments are concerned with the Courts from various points of view, for instance, from the administrative point of view, and from the financial point of view, and we thought it was difficult to go upon our general line of Provincial autonomy, and take this body of work out of the Provinces and give it to the Federal Government.

5814. In view of the fact that it raises the whole question of the Judicature, I think I had better reserve any questions on that, subject to my Lord Chairman's directions. The only other question I wanted to ask was this: The list of special responsibilities of the Governor, taken together with Proposal 73, creates, does it not, this situation, that it is only in matters coming under one of the special responsibilities that the Governor can under his Instrument of Instructions act contrary to the advice of a Minister?—Yes.

5815. What will be the position of the Governor's Instructions if they are mentioned in the Act, and are subsequently approved by both Houses of Parliament. Will that give the Instrument of Instructions a legal validity?—It would give the Instrument of Instructions a Constitutional validity within, I assume, the Terms of the Constitution Act.

5816. It would be merely a Constitutional validity. Supposing the Governor did order some executive action without the consent of his Minister; supposing it were known that his Minister dissociated himself from that action, and supposing a case were brought into the Courts to declare that action of the Governor invalid on the ground that it did not properly come under his

special responsibilities, could the Governor's Instructions be invoked as a legal document?—My answer would be no such action so far as I can see could arise. The Governor's decision is the last word.

5817. At any rate it is the intention of the Government that the Instructions should be so worded as to make a recourse to them in the Courts impossible?—Certainly, but, much more important than that, whether the question arises out of the Instructions, or whether it does not, the last word would be the Governor's, and it could not be challenged in a Court of Law.

5818. That is, at any rate, the intention of the Governor. What is the position with regard to appointments?—Appointments do not, as a general rule, come within the Governor's special responsibilities?—Yes.

5819. He could not, for instance, argue that the mere appointment of one or two Police Officers constituted a grave menace to law and order, but is the Governor then to have no power to overrule his Minister in the case of appointments (other than, of course, Secretary of State's appointments which are provided for) in the Police service or the Magistracy?—No, under the White Paper we do not give any special powers other than general powers for safeguarding the interests and the rights of the services, and for carrying out the special responsibility.

5820. So, in fact, all the appointments in the Judicial and Executive Services, except the Secretary of State's services, would be in the hands of the Ministers, and the Governor, while he would be consulted, would be unable to make any appointment except the appointment recommended to him by the Minister?—The Governor under the White Paper proposals would intervene if he thought his field of special responsibilities was being endangered. He has general powers for intervention in that case.

5821. Take a thing right outside the question of Law and Order?—Take the appointment of the Head of the Irrigation Service, or the Canal Department. The Governor would have no real say in the appointment of a very important official of that kind?—I would have thought myself that the Governor of the

Punjab would be in the closest touch with his Ministers, and that is just the kind of question that he would discuss with the appropriate Minister, and upon which I should think the Minister would attach a good deal of weight to his view. That is the way I expect it to work.

5822. But constitutionally, under the Act and the White Paper, the Governor will have no constitutional power with regard to such appointments except that they will run in his name?—Yes, except within the field of his special responsibilities.

*Sir John Wardlaw-Milne.*

5823. I want to ask the Secretary of State one question arising out of something that he answered before. When he was asked about the possibility of the Inspector-General of Police and District Inspectors-General of Police having direct access to the Governor-General and the Governor respectively he said he thought it would be better that it should rest in the Governor's discretion to make rules as to the conduct of business, and therefore as to whom he should see. Has it occurred to him that it might be very difficult for Governors in different parts of India to lay down differing rules on this subject? Has it occurred to the Government that, although the conditions might be different in the Provinces there might grow up merely, for example, a practice that the Governor did not lay it down that a District Inspector-General of Police should have direct access to him, and, that having become the custom, it might be difficult for the Governor in one particular Province, although it was necessary, to make an effective new rule?—I should not be afraid of a variety of procedure. I base that statement upon the impression that has been made upon me very often by my talks with people who come from the different Provinces, and the one thing that has impressed itself very much on my mind is that what is very much required in one Province may not be required at all in another Province.

5824. I think that will be understood by Indian Ministers?—As Sir Malcolm reminds me, there is very great difference of practice at present.

5825. It only occurred to me as a practical difficulty. The wording in paragraph 71 on page 56 is: "After considering such advice as has been given to him by his Ministers"—I am not at all clear in the interpretation of these things, but it occurs to me (you have made it quite clear that does not mean that he is bound by that advice in any way), but does not that almost imply that he is bound by it?—No; there are only two phrases that bind anybody, one is, "at the discretion of the Governor", and the other is, "on the advice of his Ministers."

5826. On paragraph 66, page 54, of the White Paper, in connection with an answer you gave regarding the appointment of Ministers who have to seek or secure a seat in the Legislature within a period, I think it is of six months, has it occurred to you that a way out of the difficulty might be either to extend that period or to have some right of reappointing a Minister for a further period of six months, if necessary. Supposing a state of emergency for which you wanted a special Minister lasted longer than six months, would not there be a difficulty?—We have not specifically laid down a period, but the kind of period that has been in my own mind has been six months. I think it is a matter for discussion as to whether there should be a period of that kind and how long it should last for, but I would be nervous of extending it unduly, because it is specifically meant for an emergency and a state of affairs that goes on indefinitely can scarcely be classed as a passing emergency.

Sir John Wardlaw-Milne.] I was wondering if you had fixed a period in your mind.

Sir Reginald Craddock.

5827. I would like to ask Sir Samuel Hoare in order to clear up something that is not quite clear in Proposal 72 on page 56. It is there said that the Governor "will act in accordance with such directions, if any, not being directions inconsistent with anything in his Instructions, as may be given to him by the Governor-General or by a Principal Secretary of State." That would imply that the Governor might dispute an

order or a direction given to him on the ground that it was inconsistent with his Instrument of Instructions. Then, in the next proposal, the Instrument of Instructions is itself liable to directions from time to time given by the Governor-General or one of the Principal Secretaries of State. There would appear to be some difficulty in reconciling the position?—The position would be that the Secretary of State and Parliament would be the last word.

5828. That exception or qualification in Proposal 72 becomes, you may say, almost meaningless?—No, I do not follow Sir Reginald's point. I do not see that it is at all.

5829. The Governor is absolved apparently from acting in accordance with instructions given to him in certain events. He is bound to act in accordance with them unless they are directions inconsistent with anything in his Instructions—if you look at the last sentence in Proposal 72?—I am still not quite clear about Sir Reginald's point. The position would be that he would act in accordance with his Instructions and the Instructions would be within the spirit of the Constitution Act. I do not see where the difficulty arises.

5830. But it is open to him to plead that the instructions which the Governor-General has given are inconsistent with his Instructions?—If he did so plead it would be for the Secretary of State to decide.

5831. That was my point. As you have put that in, it becomes a dead letter. Is it worth retaining?—I should not have thought so. It seems to me almost incredible that that kind of contingency would ever arise. If it did arise the last word must be constitutionally with the Secretary of State.

5832. Yes, but that was my point, that that qualification would seem to be unnecessary because it would be meaningless. I think, Sir Samuel, you said, you did not think the question would ever arise. Leaving that point, I would like to know exactly how the Secretary of State would deal with a case like this: You have got a case of a Governor who uses his special responsibilities or wishes to use them excessively. He would be

under the superintendence of the Governor-General and the Secretary of State who would presumably restrain him if he was using his powers hastily or unwisely or playing the part of a Mussolini, for example, but, on the other hand, supposing there was a Governor who was the other way round, who wanted a quiet life, who did not want to create a crisis and so on, and who did not use his powers when most people would think he ought to use them ; how would the Governor-General and the Secretary of State have the necessary information in order that they might intervene in time ? You have to contemplate these things. The Governors however well selected, may vary considerably and you might easily get a governor who did not intervene on his special responsibilities when it was really necessary for him to do so. On the other hand, how would the Governor-General and the Secretary of State have the information which would enable them to address the Governor, pointing out to him that he ought to be intervening ?—I would have thought that the Governor-General is bound to know of a situation of that kind. If the Governor is not carrying out his powers there will be plenty of people who will be aggrieved for one reason or another in the Province, and they will undoubtedly make their voices heard, and I should be astonished if the Governor-General did not at once know all about it, and if he did not at once communicate, if he thought fit, with the Secretary of State here. I cannot contemplate a situation in which the Governor-General would not know about a situation of that kind.

5833. You would admit, Sir Samuel Hoare, that there is no official who could inform the Governor-General about anything that was going wrong in which the Governor was not acting ?—But surely the Governor-General will keep up some means of regular communication with the Provincial Governors, and I cannot contemplate a state of affairs in which a Governor would be so inadequately carrying out his duties as really to make something in the nature of a public scandal, and that an active Governor-General, following what is happening, realising his own special responsibilities for the ultimate prevention of menace to Law

and Order in India, would not know what is happening.

5834. The Governor might be reluctant to carry out his powers in the protection of minorities or something of that kind. I am not referring to a great crisis but to cases in which the Governor-General might intervene ?—I should be astonished if the minorities did not make their voices heard and if they did not ring from one end of India to the other.

5835. There is a point about the Police Service and their protection which I know Police Officers have always been nervous about, and that has been in the past (at all events it has often happened in my own experience) that some occasion has occurred, some clash or riot or some occurrence of that kind, in which there has been a demand by the Legislature to have a Committee of Inquiry appointed. In such a case does the Secretary of State contemplate any protection from an inquiry of that kind ?—We do not contemplate any special provision for a case of that kind, for the obvious reason that we do see great difficulty in preventing an Assembly from setting up Committees of Inquiry. The Governor would have his power to intervene if he thought an Inquiry of that kind was going to endanger his special responsibilities ; but there is nowhere in the White Paper provision to say that Committees of Inquiry should not be set up, nor, as Sir Reginald Craddock knows, have obstacles been put in the way of such Committee being set up under the present regime. When I say that, it does not in the least mean that I wish to say anything to encourage Committees of that kind ; they may be very often parties and bodies that do more harm than good, but it is a very tall order to say to a popularly elected Assembly with a responsible Ministry, that it shall not set up Committees of Inquiry if it to desires. I would just like to add this further point : I would contemplate, that under the White Paper scheme, such Committees of Inquiry in the future, if they were set up, would be directed much more against the policy of the Government, the Government being responsible under the scheme for Law and Order, than they would be against either the Police Service or individual Police Officers, and I think



that that would be a great change for the better.

5836. Then might I go on to Proposal 83, the disqualifications under the existing rules and regulations; I understand that persons convicted of various serious offences are under disqualification, but there is nothing said about that in Proposal 84 ?—I think Proposal 84 may well be further considered. We have been in some doubts about it for this reason: We have found in our inquiries that, judged by the experience of other countries, and even the experience of Governments in the British Empire, disqualifications of this kind very often are not much good. I would like the Committee and the Indian Delegates to look in greater detail into these questions. It may be necessary to put these disqualifications into the Act. At the same time, if they will study the experience of other countries, they will find that objectionable people have none the less effected entry into these various Assemblies.

*Sir Joseph Nall.*

5837. Would Sir Samuel say why he prefers, or why it is proposed, to rely on Instruments of Instruction approved by Parliament rather than to include the matter of such Instructions in the Act ?—For several reasons. First of all, there is an element of greater flexibility in Instructions, and I think what everybody wants to avoid, if we can avoid it, is to have new Constitution Acts whenever any modification is made in the Constitution. My own view would be that, whilst Parliament can maintain its sovereign power in so far as it gives sanction to the Instructions, it does enable it to have a greater flexibility in dealing with questions of this kind than it would have if it was necessary always to have a new Constitution Act. That is our main reason.

5838. Will the Governor-General and the Governors, as Agents of the Crown, derive any other authority except that which they get from the Act and the Instruments of Instruction ?—So far as the Federal Constitution goes, my answer is, no. When, of course, it comes to the wider field of paramountcy, then other issues arise, and also, as Sir Malcolm Hailey reminds me, questions con-

cerned with the prerogative of the Crown.

5839. So far as instructions of authority relating to treaties with the States are concerned, that will not be interfered with by the new legislation in respect of any States not in the Federation ?—No. We are keeping questions of paramountcy completely out of the Act altogether, for the reason that we regard them as direct relations between the Crown and the States and not within the purview of the Federal Governments at all.

5840. So it would be fair and clear to say that any matters of that kind would not become questions of debate in Parliament on Instruments of Instruction. They have not been in the past, and there would be no change ?—It is not contemplated that there would be any change in the procedure. The relations remain Crown relations just as they are at present.

*Marquess of Salisbury.*

5841. But I understood the question was whether the matter in the States might be matters of discussion in the Assembly, was it not ?—No; it was whether they would be included in the Governor's instructions, and as such would be susceptible to discussion in Parliament.

5842. I apologise ?—As a matter of fact, as far as I know, there is nothing Constitutionally to debar Parliament from discussing any questions of paramountcy; but we do not contemplate that this new procedure with instructions should vary that position.

*Sir Joseph Nall.*

5843. But whilst, at the present time, there is nothing to debar discussion in Parliament on those matters, in fact the explicit vote of Parliament is not necessary for the giving of any instructions ?—I would not like to say that. I would have thought that Parliament could, if it so wished, have criticised the Secretary of State and the Government for any action that they took within that field, and any advice that they gave to the Crown, but that would be quite outside the Federal Constitution.

5844. I pass to another matter. Several witnesses raised apprehensions

regarding the absence from the White Paper proposals of provision for official languages. Has the India Office any proposals to make on that, or were there any reasons why such a provision was omitted?—I think that is a point to be considered. My own view would be that it is safe to leave things as they are in the White Paper, for this reason: That with the great diversity of languages in India, and the fact that so many educated Indians use English as one of their main vehicles of communication, we may rest assured that English will remain the official language, but, by all means, let the Committee and the Delegates consider the point whether they would like to emphasise that fact in the proposals.

5845. I suppose it is fair to say that some of the languages in India are just as foreign in other parts of India as English might be to any part of India?—I suppose that would be so.

5846. And, therefore, it is not really a fair presentation of the case to describe English or English officials as being aliens. Are they any more alien than some parts of India are to other parts?—I think that must be a matter of individual opinion.

Major Cadogan.

5847. My Lord Chairman, the Secretary of State has already answered all the questions I desired to put to him, except one, if I may put that to him. Am I right in assuming that there is nothing in the suggested Constitution that would qualify the transfer of Law and Order to a responsible Minister in the North-West Frontier Province?—No; there is the provision of the special responsibilities of the Governor for Law and Order; further than that, there is paragraph 47 of the Introduction, in which it is set out that it is intended to draw the attention of the Governors to their responsibilities for the maintenance of peace and tranquillity, and so on. Those clauses would cover every Governor in every Province.

5848. May I draw your attention to a sentence on page 323 of the First Volume of the Statutory Commission, to this effect: "The question of Law and Order, which in other parts of British-India is a domestic and internal matter, in the North-West Frontier Province is closely

related to the subjects of foreign and diplomatic policy and of Imperial defence." May I also remind the Secretary of State that the Commission laid great stress upon the supreme importance of close co-operation between the Police in the districts, the Frontier Constabulary and the Political Agencies, and would it not be rather difficult to secure that co-operation, if Law and Order in the North-West Frontier Province were handed over to a responsible Minister?—If Major Cadogan would look at page 55 of the Proposals, he will see that we do contemplate that the Governor-General should treat those kind of questions exceptionally—Paragraph 70 (h). And Major Cadogan will also remember that we keep the tribal tracts directly under the Governor-General. I think that is a matter bearing upon the question he has asked me, which is a question based, as I understand it, mainly upon the needs of Indian defence.

5849. Upon the necessity of keeping the administrative districts and the others one for the purposes of Law and Order?—Yes. My answer would be that, first of all, the tribal tracts are kept directly under the Governor-General, and it may well be that, in the interests of Indian defence, he may have to take special action outside the tribal tracts. But here again I would say it was a mistake, admitting the whole time the necessities of Indian defence, to make a big distinction of principle between the North-West Frontier Province and the other Provinces. By all means, let us make quite sure of everything that is connected with defence, but after that, I think the Committee will find, upon further consideration, that there are many objections against isolating one Province from the rest, and applying to it totally different treatment.

5850. I quite see that. I am sorry to press the Secretary of State, but I think this is a matter of great importance. I would like to draw his attention to another passage in the Statutory Commission Report, page 322, Volume I, where it says: "If difficulties arose, they would involve a reference to the Government of India, and smooth and rapid working which is so essential in an area constantly exposed to the danger of tribal raids, and to outbreaks of passion

and violence, might be impeded." Would that be a very great danger on the Frontier?—I think it would be, certainly, a great danger then, just as it is a great danger now, but I do not really see how the danger is going to be increased under our proposals. The Governor of the North-West Frontier Province will hold two positions; he will be Governor of the Province and he will also be Agent to the Governor-General for the tribal tracts, and communication will be just as close about the tribal tracts with the Governor-General, under the White Paper proposals, as it is to-day.

5851. He does not now have to refer any action he takes to a responsible Minister?—Nor would he, under the White Paper. So far as the tribal tracts are concerned, he is the Agent of the Crown. There is no intermediate intervention of any Minister or any Governor.

5852. There is only one other small point I want to raise with the Secretary of State. In reply to Major Attlee on the subject of the composition of Second Chambers, I suppose what you have in your mind for the qualification for the Second Chamber is experience, more than anything else; you want men of experience, I mean, when you said it was to be a conservative element, you really do not require it to be so much of a conservative element as that the Second Chamber should be composed of men who have had experience of men and affairs. That is really what is at the back of your mind, I presume?—I think any Second Chamber, in the nature of things, is pretty certain to be a more conservative body than the First Chamber. I do not mean that in any party sense at all, but the essence of having a Second Chamber is that you wish to have a steadying body for revisory or other purposes. I do not think I would restrict my reason to the reason of experience. I would say I would try to get into the Second Chamber interests that may not be so effectively represented in the First Chamber.

5853. Perhaps you will agree with me that men of experience are more likely to be conservative than those who have had no experience?—I expect you and I would agree, but I am not quite sure that our friends on the right would.

*Lord Rankeillour.*

5854. Secretary of State, I think you said this morning that the Instrument of Instructions would be issued by the Government subject to Parliamentary vote. I confess I do not quite see how that is covered by paragraph 64?—I do not quite follow Lord Rankeillour's point.

5855. A positive Parliamentary vote would appear, under paragraph 64, not to be required for this?—What we have principally in mind is that the Instructions should be laid on the Table of both Houses, and there should be an opportunity for both or either House to vote upon them, if they wish.

5856. But even if they did so vote, would that have a binding effect? It only says "make representations"?—Yes. The reason that it is put in that form is this, that with Instructions, constitutionally, we have to be very careful not to impinge upon the prerogative of the Crown; that is the reason for using those words.

5857. And you think, as a matter of fact, that any representation that was made would be given effect to?—Certainly, that is what we contemplate.

5858. What would be the opportunity?—It would be easy enough in the House of Lords, but in the House of Commons it would probably come under exempted business, and only entered upon after eleven at night?—No, I should contemplate a very important question like this being given a much greater opportunity for discussion. The Secretary of State would have to put the Instructions down and would have to give the House of Commons time.

5859. Would it not be possible to put: "Shall not take effect until such opportunity has been given and taken advantage of"?—That is very much a question of drafting, and I would not like to give an opinion upon it here and now, but I would again like to repeat to Lord Rankeillour that in any drafting we have got to be very careful not to impinge upon the prerogative of the Crown.

5860. I think the Chief Whip in the House of Commons would always wish it to be taken after eleven, would he not, probably as a matter of time?—I should have thought not with a question of

immense importance like this, at the beginning of a great Constitutional chapter. I would have thought emphatically not.

5861. Then, of course, there may be amendments, and they would be subject to the same rule ?—Yes.

5862. Now there was one point raised first by Lord Eustace Percy, and then by Sir Reginald Craddock. I confess I do not think it is quite clear now, though I dare say it may be covered somewhere else, that is directions given by the Governor-General. Paragraph 72 certainly appears to contemplate that those directions will be given when the Governor is taking action for the discharge of special responsibility or special discretion. In other words, that the initiative will have to come from the Governor. Is it covered anywhere else, that until he has taken such action, the Governor-General may direct him to take such action. In other words, he may tell him that a situation has arisen in which he must make use of his special powers ?—If it is not clear, we must make it clear.

5863. You agree that it should be made clear ?—I agree that it should be made clear.

5864. Now with regard to the possible dismissal of Ministers, you said something which appeared to me to imply that it was only when the case of special responsibility had arisen that a Governor could, in practice, whatever the Constitutional theory would be, dismiss his Minister ; it would have to be in discharge of his special responsibility ?—Yes, I think that would be my view, generally, subject of course to the normal powers of the head of a Government in relation to his Ministers.

5865. But in the case of two of the Australian States, within the last few years Ministers have been dismissed by the Governors on other grounds. Would there not be an equal power in India ?—I should like to consider that point further.

5866. If I remember right, the Prime Minister of New South Wales was dismissed because he gave orders that the lawful debts were not to be paid ; I think that was so ?—In a case of that kind, the Indian Governor would be able to take action under his special responsibilities.

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Sir Joseph Nall.] Not in the Province.

Lord Rankellour.

5867. In the Province ?—Yes.

5868. I do not want to press it, if you have not the matter before you, but I do not see on the face of it that it is so. Now in the case of paragraph 69, it says : " The Governor will whenever he thinks fit preside at meetings of his Council of Ministers." I suppose it is possible that you might find a Governor who was inclined to take the line of least resistance. Might it not be better to put it in this form : " shall ordinarily preside," in order that he may get completely in touch with the work that is going on ?—I would myself prefer to leave a latitude, and one has to assume that the Governors will be people who are prepared to take their duties very seriously, and I would much rather leave it to the judgment of a Governor whether he presides or whether he does not.

5869. I will not say in India particularly, but taking the Colonies, I will not take the Dominions even, but now and then Governors have been appointed by the Colonial Office who do no more than they are actually required to do, have they not ?—I could not answer for the Colonial Office ; one Department is quite enough to have on one's hands at one time.

5870. But we do get some general knowledge, I think, whether we are in a Department or not ?—We get some general knowledge, and each of us is at liberty to interpret it as he wishes. Lord Rankellour's view on this point would be just as good as mine.

5871. Thank you very much. Now with regard to the question of particular safeguards and with regard particularly to the question of Bengal, I think you said that it would be rather invidious, and it has been said in evidence, to make an exception of one Province. Is that not so ?—Yes.

5872. And the same question might arise in another Province possibly ?—Yes.

5873. Now I would ask you to look at paragraph 71. That appears to contemplate a slowly developing situation in which the Governor will take the advice of his Ministers, and so on, before he acts, but, as a matter of fact, in Bengal, the situation is normal, the

situation of terrorism, and so on, it is endemic, and, therefore, the question would arise from the very first ; it would be there all the time ?—It is very difficult to say whether it will be there all the time, or whether it will not be there all the time, but I quite agree it is an exceptional danger and it has been endemic in Bengal now for many years.

5874. What I mean is this : If the White Paper were passed as it stood now, the special branch would come under the first Bengal Ministry ?—The Governor and the Governor-General would have to decide at the time.

5875. But that seems to me a little inconsistent with the process of a developing situation apparently contemplated in paragraph 71 ?—No, I do not think so ; I do not quite see why.

5876. Because there, after considering such advice as has been given him by his Ministers, and so on, that seems to contemplate some time passing ?—If that be so, it is a question of drafting, but we were certainly contemplating that if in Bengal or in any other Province there was a situation in which it was necessary for the Governor to take exceptional powers, we should not have to wait.

5877. Would it be possible (I do not see it in the White Paper) for the Governor-General from the very first to give orders in Bengal, and it might be in other Provinces that the Governor should exercise his special responsibilities from the first ?—Yes.

5878. That does not appear on the face of it at present ?—I would say, without entering into an argument, it is implicit in a good many provisions of the White Paper.

5879. You remember that the Police in their evidence said that the initiation of the Constitution would be a very critical period, and the first elections, particularly ?—Yes.

5880. That rather emphasises the point I am trying to make does it not, not only, perhaps, in Bengal ?—Yes, and I would say to Lord Rankeillour that if there is a situation that calls for the exercise of any of these special responsibilities, we do not contemplate that there would be delay in applying it.

5881. And in the end the Central Government would have to be the judge

of that ?—No, not the Central Government ; the Governor-General and Parliament.

5882. I beg your pardon ; I meant the Governor-General and his staff ?—Yes.

5883. Now there was a point raised by Lord Salisbury : Supposing there were official disobedience on the part of officials and the Governor assumes his special responsibilities, he would be able to dismiss an officer, presumably ?—Yes.

5884. Could the officer challenge that dismissal ?—In the case, of course, of the Secretary of State's services, there is the Parliamentary guarantee here, but the Secretary of State would have to take responsibility for a dismissal of that kind with his Council or whatever may be the body that advises him under the new Constitution.

5885. And those who were not in that category, would they have any appeal or redress under those circumstances ?—Sir Malcolm tells me that they would be able to memorialise the Governor ; but, presumably, the Governor having given the decision, the memorial would not have very great effect.

5886. That would be the end of that ?—Yes.

5887. Is there any procedure in the Indian penal code for any summary trial for recalcitrant officers ?—No

Lord Rankeillour.] Now I am afraid I must come back to one or two questions on the Provincial List. On one or two of them, I have had a little friendly controversy with Mr. Zafrulla Khan.

Mr. Zafrulla Khan.] On that, would it not be best if we could have a note from somebody who has had to do with it as to what is the present position, so that we can compare the position at present, with that which is proposed.

Lord Rankeillour.

5888. I quite agree with that, but I want to ask, not on merits at all, but what is the effect of certain provisions. For example, on page 117, No. 50, you find Police is an exclusively Provincial subject. That, surely, implies, except so far as it is contrary to the code of Criminal procedure, that the Provincial Government would make laws entirely

transferring the basis of organisation, and discipline of the Police. Is that the effect of the construction?—I am going to ask Sir Malcolm to deal with this point, because he will deal with it from his own administrative experience. (Sir *Malcolm Hailey*.) The effect of this would be that the Police Act which is now a General Act for all India, would become liable to local legislation. That legislation could only affect the organisation of the Police and its administration. It does not affect any powers that the Police possess under the Criminal Procedure Code.

5889. No, but it would affect the organisation?—Yes.

5890. And consequently their discipline?—Their discipline; yes.

5891. That point was raised I think by the European Association or by the Police themselves—I do not know which—on the question of the possibility of the creation of a Federal Police Force. The inclusion of Police in the purely Provincial list would prevent that, would it not?—(Sir *Samuel Hoare*.) I have never been able to see myself how you could fit a Federal Police into an Indian system in which the Provinces are autonomous, and in which the States are sovereign. I have never seen, and I cannot now see, how you could fit that kind of Service into the kind of scheme that we are contemplating for India, and if there was to be any central organisation I do not see how it could be Federal. I think then, almost inevitably, it would have to be under the Governor-General. I do not argue the merits, or the disadvantages of an arrangement of that kind now, but if there is to be an arrangement I do not see how it can be Federal.

5892. I took the word from the statements of some of the witnesses, but, anyhow, if the Police is to be a purely Provincial subject as far as legislation goes (I am not talking about merits) the effect of this No. 50 on page 117 would be to prevent it, would it not?—To prevent its becoming what?

5893. To prevent its being created at all—a Federal Police?—It would prevent its being Federal, yes.

5894. It would prevent any Federal Police being appointed?—Yes.

5895. I only wanted to get it on construction, not on merits?—Yes.

5896. I come back to what I have raised before, but it has never been quite cleared up: that is, the constitution and organisation of all the Courts within a Province. That is No. 28 on page 116. That would mean that the Courts could be set up under such conditions as regards the personnel as the Provincial Legislature might prescribe?—Yes, subject to the fact that the higher appointments are made by the Crown.

5897. I am talking of the subordinate ones?—Yes.

5898. Not to go to anything more extravagant it might be made a rule that nobody should be made a subordinate judge who had not graduated at a particular university. That is a possibility?—I would say, off-hand, without expressing a considered opinion upon a case of that kind, that it would certainly raise the whole issue of discrimination and that the Governor would be justified in intervening.

5899. But it would not be racial discrimination?—No, but the discrimination contemplated in the White Paper is not restricted to racial questions.

5900. Not altogether, but it could prescribe conditions and qualifications for the subordinate judges?—Yes, I think that is so.

5901. And no higher authority could interfere because this is a purely Provincial subject?—But to take your own case: I cannot conceive a case of that kind in which appointments were restricted to a particular university not raising all sorts of other issues, first and foremost amongst them, the minorities issue.

5902. I only gave one case, but still it does put the qualifications, be they what they may, under the discretion of the Provincial Legislature?—Yes, that is so.

5903. No. 30 on page 117, except with regard to the Federal and concurrent powers, would allow the Provincial Legislature to change the jurisdiction of the Courts within the Province?—(Sir *Malcolm Hailey*.) Yes, within their own list of subjects, within their own scope of legislation.

5904. That is to say, on points within their own list of subjects they could give

a final jurisdiction to a subordinate court or transfer a High Court jurisdiction in respect of some of those subjects to a subordinate court?—Yes, they could do so, subject to any powers that a High Court has under Letters Patent.

5905. With regard to these particular subjects that is not clear that they could not override the Letters Patent with regard to these particular subjects?—Letters Patent, I think I am right in saying, confer powers that are outside the Indian Statute entirely but are derived from prerogative.

5906. Do not you want a qualification here?—That might have to be done. But these lists here have not been finally considered as yet. They are put in, as has been explained, largely as illustrative, and it is quite clear that a good deal of very technical examination will have to be made to these lists to see if any point arises such as that to which Lord Rankeillour has called attention.

[Lord Rankeillour.] I was not really wishing to go into merits, but only on construction. That is all I wish to ask.

Marquess of Zetland.

5907. Sir Samuel, would it be open to a Governor under Proposal 69 to make a rule for the disposal of business in these terms: "It shall be the duty of every Secretary to Government to submit to the Governor any matter which comes within his purview affecting the Governor's special responsibilities"?—(Sir Samuel Hoare.) Yes.

5908. Might I go so far as to ask you whether you would regard that as a reasonable rule of business?—It is very difficult to give a general answer to a question of that kind.

5909. Then I will not ask you?—I think one must leave it to a Governor in his Province to make the arrangements that will ensure his having proper powers and will, at the same time, ensure the greatest amount of co-operation between himself and his Ministers, and I would rather not say, therefore, that I approve or disapprove of a particular form of words, as I should like to leave it open to the Governor on the spot.

5910. Still on the subject of the Governor's special responsibilities, I think there is a good deal in what I

think was at the back of Sir Reginald Craddock's mind, namely, that there will be a greater danger really of the Governor refraining from acting in the discharge of his special responsibilities than of his stepping in and interfering with the business of government too often. With that feeling in my mind, I would like to ask you whether you have considered whether the special responsibilities which are allotted to the Governor under 70 (b) and 70 (d), that is to say, the protection of minorities and the prevention of commercial discrimination, might not be equally well safeguarded if these matters were left to the Courts?—No, I think very decidedly not. I think that to leave these questions to the Courts would be quite inadequate. First of all, I think that in the field of administration there will be acts committed or threatened, or there may be acts committed or threatened, that would not be susceptible to a legal decision. Secondly, I think that in any case it would take a long time and it might be much expense to get a legal decision, and I think on that account it is quite essential that the Governor should have these powers in addition to any powers that a citizen may have from recourse to the Courts.

Marquess of Salisbury.

5911. You say "in addition"?—Yes.

5912. Will there be all the powers with the Courts as well?—Yes, certainly, and it would be open to anyone to challenge the validity of an Act on the ground that it impinged upon, we will say, the field of commercial discrimination.

Marquess of Zetland.

5913. There is only one very small point in connection with 70 (a). Would the Secretary of State tell the Committee what is the distinction which he draws in his mind between the peace of a Province and the tranquillity of a Province?—The reason we have put this phrase in is mainly historical. For some reason or another, peace and tranquillity have always been bracketed together in Indian Constitutional Acts.

[Sir Tej Bahadur Sapru.] Not only in India but in English law, too. You have

borrowed it from English law. There are old statutes where this phrase occurred, "peace and tranquillity." It is a very well understood phrase.

*Marquess of Zetland.*

5914. There is only one other question. That is in connection with the situation which might arise under Proposal 71 which has already been discussed this morning, namely, the situation in which the Governor decided that he must take over the administration of a particular part of the Department of Law and Order. Let us call it the C. I. D. for the sake of example. I only want to be clear in my own mind as to what the procedure will be in those circumstances. Ordinarily, of course, all cases come up to the Minister in charge of a Department through the Secretary to Government concerned with that Department. Supposing the particular part of that Department is taken away from the purview of the Minister and placed under the direct control of the Governor, will the Secretary to the Department bring his cases, so far as they concern that particular part of the Department direct to the Governor, or would he submit them through the Minister?—It must depend upon the actual situation. Presumably, if he is forced to take this action, the Governor is at variance with the Minister. If the Governor is at variance with the Minister, obviously he would be free to instruct any official to bring him the reports direct and not through the Minister, or, if he wished, he could create a special officer or Department to deal with the situation.

*Marquess of Reading.*

5915. There are one or two matters I wanted to clear up. With regard to the Letters of Instruction, would you tell me whether I am correct in thus stating the views which you have expressed? I am only doing it to see that there is, as I think, nothing between us about it. As I gather, Letters of Instruction are really letters from the King?—Yes.

5916. In the present case what you are proposing, as you have explained, is to have certain matters prescribed which are to be in the Letters of

Instruction, and which matters will be laid before Parliament?—Yes.

5917. But that does not interfere in any way, does it, with your power as Secretary of State, if you wish, to add to a particular Letter of Instruction to a Governor, or to a Governor-General, provided you do not put anything in it which is inconsistent with the standing Instruction which has been before Parliament. That is right, is it not?—Yes, that is so.

5918. Of course, that leaves it open to you to add anything which you think may be required without having to go to Parliament?—Yes.

5919. And, consequently, when you are issuing Letters of Instruction, or, rather, when Letters of Instruction are issued to a Governor-General or to a Governor, what you would look to first would be to see that you have in those Letters of Instruction all those matters which have been prescribed and placed before Parliament, and then such other matters as you may think necessary to insert, but you would not have to place that Letter of Instruction before Parliament, would you?—I would have thought the subsequent instructions would go as directions from the Secretary of State either to the Governor-General or to the individual Governors.

5920. That is what I thought?—But they would, of course, have to be within the letter and the spirit of the standing Instructions.

5921. Certainly. You would have to include all those matters which Parliament has said should be in the Letter of Instructions?—Yes.

5922. In addition you may put in whatever you desire, which is not inconsistent. That is the position, is it not?—Yes, I think substantially it is.

5923. I think there is only one other matter that I want to put to you. You were asked by one or two Members of the Committee about the danger that might arise in the event of a Governor refraining from taking action and taking the easier course. In such a case as that there would be no difficulty in the Governor-General prescribing the course which should be taken, would there?—None.

5924. That would be for the Governor-General to take if he thought it right?—Yes.



5925. Then the Governor would have to conform to those orders ?—Yes.

*Archbishop of Canterbury.*

5926. I only want to ask one or two questions to make a few points clear, Mr. Secretary of State. It has been obvious from the discussion that great importance now attaches to Proposal 69, as a means of meeting may difficulties which have hitherto been expressed. I think you have made it clear that under Proposal 69 it will be open to any Governor to give instructions, or to make rules, that, say, the Inspector-General of Police should have direct access to him. I think you made it clear that that would be permissible under Proposal 69 ?—Yes.

5927. Would it also be permissible to make a rule that a similar right of access should be given by him to the Cabinet—to the Ministry as a whole ? That would come under Proposal 69 ?—A similar right of access of the Inspector-General to the Cabinet ?

5928. Yes ; that was suggested ?—I suppose it could be done, but I would have thought that if things were working well the Cabinet would have in the Inspector-General when they wished to have him in, and if things were not working well I am not sure that the demand of a right of access would do very much good with the Cabinet. I have not considered explicitly His Grace's point, but my present view would be that it is included if it is needed.

5929. Whether wise or not ?—Yes.

5930. Would Proposal 69 also conceivably make possible to rule by the Governor insisting that in certain Provinces, or in certain circumstances, the Special Intelligence Department of the C. I. D. should be placed exclusively in his control, apart altogether from his acting in view of his special responsibilities. I merely want to know, would it be possible for him under this rule to treat that as a rule for the conduct of Government business ?—No, I cannot see that it can be brought in under Proposal 69, a paragraph which deals with the conduct of business. If action had to be taken on the lines suggested by His Grace it would have to be taken under Proposal 70, namely, under the exercise of the Governor's special responsibilities.

*Archbishop of Canterbury.]* I just wanted to be clear about that. With regard to the very important matter which Lord Reading and others have dealt with, of the Instructions to the Governors, I think you made it quite clear that your view is totally against making any discrimination in the Letters of Instruction between one Province and another. You have made that quite clear.

*Marquess of Salisbury.*

5931. Did you go as far as that, Mr. Secretary of State ?—I was just wondering exactly what were the implications of His Grace's question. It is perfectly true to say that I do not wish to see a discrimination upon broad issues of policy between one Province and another. I think I would like to consider a little bit further the question of details in the Instructions as between one Province and another. I do not think I contemplate differences. In any case they will only be questions of detail apart from the case of the Governor of the North-West Frontier Province who, owing to his responsibility both for the Province and for the tribal tracts, would have included in his Instructions some kind of special paragraphs.

*Archbishop of Canterbury.*

5932. I think it has also been fruitfully brought out to-day that there may be a very useful distinction between the Instrument of Instructions to the Governors which it would be desirable to make as uniform as possible, and which would receive the special sanction of Parliament, and the other instructions which would be given by the Secretary of State, or by the Governor-General. Would not the cases of special Provinces like the North-West Frontier Province, or it even might be Bengal, be recognised not in the Instrument of Instructions, but in these quite different Instructions issued by the Secretary of State or the Governor-General either originally when the Governor took up his office, or at any subsequent stage that seemed to them to make it desirable ?—That is the way in which we contemplate things will work out under the White Paper.

5933. Just one question with regard to the question of the Courts. Am I right in thinking (forgive my ignorance) that

the Magistrates have considerable judicial as well as executive functions in criminal cases in the Provinces?—(Sir *Malcolm Hailey*.) Yes, that is so.

5934. Supposing the Magistrates were all appointed, as has been suggested, by the High Court, and not by the Provincial Legislature, would not there be risk of very serious and awkward confusion between Executive and Judicial functions?—The general tenor of my previous answer was that you could not bring your Magistrates entirely under the control and recruitment of the High Court until you had separated their functions. It would be impossible to do so at present.

Marquess of *Reading*.] May I ask one question which arose, I think, from a slip in the question. It is not intended that the Magistrate should be appointed by the Provincial Legislature, is it?

Mr. *Zafrulla Khan*.] No, by the Local Government.

Archbishop of *Canterbury*.] I beg your pardon; by the Ministers.

Marquess of *Reading*.] I thought it was a slip.

Archbishop of *Canterbury*.

5935. A question about Second Chambers. If I remember rightly, the Associated Chambers of Commerce gave us to understand that quite recently there has been a considerable change of Provincial opinion, leading them to be more in favour of Second Chambers than at one time they had been. Can the Secretary of State give us any information about that?—(Sir *Samuel Hoare*.) I think on the whole it would be fair to say that in certain Provinces the feeling in favour of Second Chambers has somewhat grown, but it would also be fair to say that the opposition to Second Chambers in other Provinces appears to be pretty strong.

Marquess of *Salisbury*.

5936. My question really only has reference to this much debated question of paragraph 64, the Instrument of Instructions. Sir Joseph Nall put a question and my Noble Friend, Lord Rankeillour, did also as to the comparative merits with the actual putting of provisions into the

Constitution Act. I believe the Secretary of State is going to look into this question of the Instrument of Instructions with a view of laying before us a model one. I wonder whether he would recollect that the Instrument of Instructions will be in a very different position from an ordinary Bill, because the difficulty of amending it by the two Houses of Parliament will be very considerable. In the first place, as my honourable friend point out, there is no obligation upon the Government to take any notice of the suggestions which are made in either House of Parliament, whereas, in a Bill, of course, they have to take notice. Then again, supposing the two Houses do not agree in the suggestions which they make, I do not know whether the Secretary of State has considered what would happen then. Of course, I only point these things out because I want him, when he is looking into the matter, to think of them. An Instrument of Instructions in the conditions put in the White Paper can never occupy exactly the same position as a Bill; it is very different in all its incidents, and, therefore, it would not be the same protection to anybody who was anxious about what the conditions were to be when the Governor would act. It would not be quite satisfactory to tell him: "We will not put it into the Constitution Act; we will put it into the Instrument of Instructions" because that is not subject to the action of Parliament in the same way?—(Sir *Samuel Hoare*.) I think Lord Salisbury's criticism would be valid if we were relying exclusively upon the Instrument of Instructions. We are not. The substantial powers will be in the Act itself. The Instrument of Instructions will be used, as it always has been used in the past, for directing the way in which those powers should be exercised. As to his Parliamentary point, as to what would happen if both Houses do not agree, exactly the same question arises with an amending Act, with this one difference, that an amending Act would come under the Parliament Act; Instructions would not; but, in any case, I will certainly at some stage in our discussions put in some draft Instructions at greater length, and Lord Salisbury can rest assured that we have very fully considered the kind of difficulties that he

has just reached, and, naturally, we will take note of anything that he says upon the subject.

Marquess of *Salisbury*.] I will not press the matter further now.

Lord *Eustace Percy*.] I hope, before we leave that point, that Lord *Salisbury* will realise that if he put into the Act of Parliament the Governor's Instructions as we have them before us in the White Paper, they would not add to the safeguards, but what they would do would be to give statutory effect to the obligation of the Governor to act in accordance with the advice of his Ministers.

Marquess of *Salisbury*.] All that will have to be very carefully looked into.

Sir *Akbar Hydari*.

5937. There is one question as to Proposal No. 70 (e), which corresponds to 80 (f), about the Governor-General's and the Governor's special responsibility in regard to protecting the rights of Indian States. If you will permit me, I will not take that up now, but when we take up the question of the responsibility of the Governor-General, because they are both worded in identical terms. Would that be convenient?—Yes, certainly.

5938. The only other question is this : If you will kindly turn to paragraph 102 about the procedure in the Legislature, and compare that provision with paragraph 52, you will observe that there is nothing corresponding to 52 (b) (1) in paragraph 102. Is that omission deliberate or is it for any reason? With regard to the procedure in the Federal Legislature, you have specially provided against any discussion or asking of questions on matters connected with an Indian State, save with the prior consent of the Governor-General. My only point is that such a provision has not been made in the corresponding paragraph regarding Provincial Legislation?—There is a reason, Sir *Akbar*, but I think I would prefer not to deal with it to-day, but to deal with it under the Federal point. I can then give you the reason why we have drawn a distinction.

Sir *Akbar Hydari*.] Thank you.

Sir *C. P. Ramaswami Aiyar*.

5939. Mr. Secretary of State, you are aware that under the Montagu-Chelmsford scheme there were certain differences that manifested themselves in the matter of joint consultation of the Governor with the Members of his Cabinet?—Yes.

5940. You are also aware that under that scheme in certain Provinces the convention or the practice developed of having somebody analogous to a Prime Minister, and other Provinces did not develop it?—Yes.

5941. Would you agree with me in saying that on the whole the scheme worked best and most in consonance with the ideas of the framers of the Constitution in those Provinces where a Prime Minister came into existence and the joint consultation was most fully exercised?—I think I would prefer not to generalise over the whole field of Indian administration; but I would say this, that we certainly contemplate under the White Paper proposals that the normal development would be a development with a Chief Minister and a Government working very closely in touch with the Governor in so far as the field of his special responsibilities is concerned.

5942. Would it be expedient, or would it not, to make it more explicit in the Instrument of Instructions that the ideal to be aimed at in so far as conditions and circumstances allow, is to bring into existence the practice of joint consultation and to form a Ministry with a Prime Minister?—I think we might certainly consider Sir *Akbar Hydari*'s suggestion; it is not in any way at variance with the general basis of the scheme.

5943. The only reason why I put it to you is this, that it would seem to be appropriate in the Instrument of Instructions and it would be a stimulus to Provinces and to Governors to pursue a line which on the whole is admitted to be not only safe, but advisable?—Yes, I think that is a suggestion we might well consider.

Mr. *Zafrulla Khan*.

5944. My Lord Chairman, I have some questions to put to Sir *Samuel Hoare* on the Provinces. Sir *Samuel Hoare* has said that the suggestion put forward

with regard to a nominated Minister responsible to the Legislature may be considered by Members of the Indian Delegation. I presume he meant that we would give our views during the discussion that followed, not that we should try to develop it by questions and answers?—That was my hope.

5945. Very well then; I shall ask you questions on that. With regard to the proposal in paragraph 90 (h) (2), at page 63, that the salaries of the Ministers shall be non-votable, I have followed what the Secretary of State has stated already that it is not considered desirable to have frequent attempts made to oust a Minister through stopping his salary and that one of the methods of ousting him would be stopping the supply for his Department. May I put it to him that in voting upon the salary of the Minister, it would be only on the occasion of a discussion of the Budget, once in a year, and that would also be the period when the supply for his Department came up. What is the distinction sought to be drawn, that the Legislature should be at liberty to refuse supplies to the Minister, but must not refuse his salary, if they want to express their want of confidence in the Minister. Why should they not have the usual way of refusing to vote his salary?—We had in mind the lessons of experience, both in India and here. What impressed me was this, that whereas under our procedure the vote of the reduction of the salary of a Minister is in the nature of a formality, behind which is launched a want of confidence in the Government, in the case of, anyhow, several of the Provincial Assemblies in India, it has been frequently used as a means of withdrawing from the Minister, not a token sum of £5, or something of that kind, as is the case in the Parliament of Great Britain, but the whole of his salary or a large part of his salary. And it has also seemed to me to be true that a good many rather factious resolutions of this kind have been moved in Indian Assemblies. We were anxious to avoid a repetition of those kind of attacks, and to get the Procedure back to what it really is in principle here, if not in form, namely, that a vote for the reduction of a Minister's salary is really a vote of want of confidence in the Government. There is

nothing more behind the proposal than that.

Mr. Zafulla Khan.] If the Secretary of State will excuse me, I am not so much upon the point of reduction of salaries. That is provided for in paragraph 68, at page 55, that the salary of a Minister will not be subject to variation during his term of office, and I agree that that may be so, and it would put an end to almost all that kind of resolution to which the Secretary of State has referred. What I want to understand is the distinction sought to be drawn that during the discussion of the annual Budget the White Paper leaves it open to the Chamber to refuse supplies to the Minister for his Department, but stops them from saying: "We do not want this Minister, therefore, we shall take out his salary from the Vote also." What is the distinction? The reduction of salary I can understand. Once a Minister is appointed, you either get rid of him by a vote of non-confidence or go on paying him the salary at which he was appointed; but if you permit that non-confidence may be expressed in a Minister when the Budget is being discussed by refusing supplies for him, why are you not prepared to admit that want of confidence in him may not be expressed by refusing his salary.

Lord Eustace Percy.] Is not the refusal of a salary a reduction of salary?

Mr. Zafulla Khan.] It is, and once in a year.

Witness.] I was not contemplating that a vote of this kind would be restricted to a single occasion in the year, and the difference between us may be due to our different conception of Parliamentary procedure. I think I would like to consider Mr. Zafulla Khan's point further, always with the assumption that I want to avoid these factious votes.

5946. There we are agreed. My point is rather this. I understand an item being non-votable in this sense. The Budget is put forward; you discuss all the items there; then items that are non-votable will not be submitted to the vote of the Legislature, they will not have the right of saying: "We shall not grant you this," and other items shall be submitted to their vote. That will happen only when other items of the

Budget are put forward. On certain other items there may be supplementary grants during the year ; but with regard to all Ministers' salaries, it would come up only on the Budget ?—I should like to look into this point further. So far as our procedure in the House of Commons is concerned, I think I am right in saying that there would be several opportunities of moving a resolution of that kind ; for instance, with our Appropriation Bills and Consolidated Fund Bills, and so on, but I think Mr. Zafrulla Khan and I are agreed as to what we want to avoid, and I will look into the point further as to what we want to obtain at the same time in the way of legitimate opportunities for criticism.

5947. Then on paragraph 69, at page 55, which is the next paragraph in order relating to the rules of business, during the preliminary discussion, I made a suggestion that the power there proposed to be given to the Governor should be limited by the proviso that these rules should be confined to rules which are designed to enable him to discharge his special responsibilities ; and I have a slight recollection, I will not be sure of it, that it was held that that was the idea. I do not know whether my recollection is correct ?—I think there were two objects intended by this proviso : First of all, that the Governor should see that business is not so arranged as to prejudice his special responsibilities, but, I think, certainly also, the Governor ought to have the chance of seeing that rules of business are not so arranged that he cannot follow generally what is happening in the Government. Under our proposals, at any rate in the earlier stages of the Constitutional changes, we are contemplating the Governor following very closely what is happening, and I would like to keep in mind that second need as well as the first.

5948. I would wish to put forward this suggestion for your consideration when you are coming to a final decision on these matters : that, so far as rules which are designed to enable the Governor to discharge his special responsibilities are concerned, he should have the power to make them at his discretion after consultation with the Ministers, and that the rest of the rules of business should be made by the Governor on the advice of

his Ministers ?—Yes. The trouble is that it is so difficult to say beforehand what is going to impinge upon the field of special responsibilities, and what is not going to impinge upon it.

5949. I am not asking you to say now ?—No. What I will certainly say is that I will take account of what Mr. Zafrulla Khan has said, and we will see how far it is possible to embody some kind of suggestions as that in rules of procedure that must obviously be uniform.

5950. With reference to paragraph 70, I have only one question to put with regard to Clause (a). Would not terrorism, or any kind of revolutionary movement, be regarded during even its initial stage as a grave menace to the peace and tranquillity of a Province, or of a particular area ?—Yes, I think that would be the case.

5951. And therefore this power would enable the Government to deal with the movements of that kind even during their very early stages ?—Yes.

5952. With reference to (f) of paragraph 70, may I ask the Secretary of State (it really comes under paragraph 106 at page 66, but it is referred to here also under the special powers ; they are related) would he be prepared to consider the suggestion that a list of excluded areas, or partially excluded areas, may be drawn up when the Constitution is about to be put into force as a sort of Appendix, and that, later on, it should be possible to modify that list wherever local variations may make it necessary, but that no further additions should be made to that list, so that no areas that have been included within the ambit of the Constitution should, at a later stage, be excluded from the ambit of the Constitution ?—My answer would be Yes. We have always contemplated a list of this kind, and we have contemplated some kind of procedure that has got to be specified for enabling areas to be taken out of the totally excluded list, and to enable partially excluded areas to be taken out of the partially excluded list. It is not the intention under this proviso to add to the list of excluded areas at all. Indeed, almost the only area that we contemplate as a totally excluded area is the hill tract area in Assam and the tribal tracts on the frontier. Apart from that, the areas will be partially excluded, and certainly there must be some

kind of machinery in due course for withdrawing those areas from one or other list when the time has come for their safe withdrawal.

5953. Now, if I may draw your attention to page 57, paragraph 74, provision is made for Second Chambers in certain provinces?—Yes.

5954. I am sure, Secretary of State, you are aware of the strength of opinion in Bengal in opposition to the proposal that a Second Chamber should be set up there, and, more particularly, that the Legislative Council there has passed a Resolution expressing their disapproval of such a proposal?—I do not think I would go quite so far as Mr. Zafrulla Khan suggests. The Resolution did not appear to me to express so strong a feeling as he suggests. I would accept the fact that there is a difference of opinion in Bengal on the subject, but I would not accept the fact that the opposition to the Second Chamber is as great as he implies.

5955. With reference to sub-paragraph (b) of that paragraph 74, the proposal is that where the Legislature consists of one Chamber provision should be made in the Constitution Act enabling the Provincial Legislature "to present an Address to His Majesty praying that the Legislature may be reconstituted with two Chambers, and that the composition of, and method of election to, the Upper Chamber may be determined by Order in Council." I suggest to him that he might consider a case like this: If the Resolution not only prayed for the establishment of a Second Chamber, but also laid down the composition and method of election, and, supposing the Resolution was made conditional upon that and dependent upon it?—I have the feeling (I do not want to express a final opinion upon this point) that with any Institutions as important as Second Chambers, Parliament here would wish to have a say of some kind and to be in a position to judge whether they thought they were fairly constituted or not.

5956. I do not want to carry the matter very far, but this kind of provision may have the effect of deterring a Lower Chamber from passing a Resolution which would permit of a Second Chamber and leave the composition and method

of election to be decided by the Secretary of State here?—I think we might consider Mr. Zafrulla Khan's point. Perhaps he will also consider the point I have just mentioned, namely, the interest of Parliament in the question. (Mr. Zafrulla Khan.) Certainly. With regard to paragraph 78 and others following, do I understand the Lord Chairman to say that we should not raise questions with regard to franchise? Would that observation apply to questions relating to the composition of the Legislatures, and so on, because, if so, I will not put any questions on it?

*Chairman.*] I think Mr. Zafrulla will understand the general purpose which I had in making the suggestion I made. He knows where he is leading, and I am quite prepared that he should judge whether a particular question should be put at this stage. If it is going to deal with the question of the franchise or technical matters of the ballot and things of that kind, I should hope he would reserve it.

*Mr. Zafrulla Khan.*

5957. I will reserve it until when I put questions on all those questions generally. I wish to draw attention to paragraph 85 on page 59?—Yes.

5958. One is familiar with a similar provision here. I should like to understand better than I do at present what it is exactly designed to meet, because I explained, or endeavoured to explain, during the course of the preliminary discussions that, as it is, the validity of elections in India, is rather overchallenged than otherwise. I do not think a matter of that kind is likely to slip through and this would raise a good many questions?—I am informed that No. 85 is to a great extent dependent on 84 (f); 84 (f) introduces a new provision, that, judging from experience here and elsewhere, we think ought to be included in the new Constitution in India, and if 84 (f) is included in the constitutional scheme, then I think some proviso like No. 85 is inevitable.

5959. Would it be possible in that case to confine it to 84 (f)?—We will look into that point. It is a drafting point, and I would like to look into it.

5960. There is only one suggestion I wish to make to the Secretary of State on paragraph 86; I do not want to go into details at present, but there is a feeling in India (it has been mentioned to me on several occasions) that the question of the privileges of the Chair and the members of the Legislature may be considered further than they have been considered in paragraph 86. This no doubt secures freedom of speech to the members, but the members, and more particularly the Chair, have expressed a desire that there ought to be some further privileges added, especially some powers vested in the Chair to control members and to maintain discipline, and so on. As I have said, I do not want to go into the details, but the Secretary of State might ask somebody who might be conversant with the details of that matter to look into it?—We accept fully the importance of privileges of that kind. We have felt, however, that they were essentially privileges to be defined by the Federal Legislature itself. However, we will look further into the question and we will consult, say, the Lord Chancellor and the Speaker to see whether from their experience they can make any useful suggestions.

5961. Thank you very much. If power is left to the Federal Legislature to deal with the matter and perhaps in a smaller way to the Legislative Assemblies themselves, perhaps that would meet the case. With regard to the suggestion for Second Chambers for all Provinces I do not want to pursue that in detail, but I am sure the Secretary of State is aware that in some Provinces at least a Second Chamber, so far as the type of member was concerned, would be a mere duplication of the Lower Chamber. I have particularly in view the case of the Punjab?—It was because of that, my Lord Chairman, that I was very careful to tell the Committee that there were these differences of opinion and that there were these different conditions to be considered Province by Province.

5962. One last question, Secretary of State; that is a question to which reference has already been made. I merely wanted to be sure that the Constitution Act will leave room for that. I am not making any specific suggestions, but the

question is this, or rather the subject is: In the new Provincial Assemblies there will be no official bloc—official members; the business of the Government will be conducted by the Government Bench; naturally, there cannot be a very large number of Ministers, and in different Provinces Governors and those whom they might consult might consider it desirable to have, say, Assistant Ministers or Parliamentary Secretaries, and so on, of different types: There may not be uniformity in this matter. I do hope that the Constitution Act will not negative that kind of arrangement?—We have not prescribed either the number of Ministers or the number of under-secretaries or, indeed, whether there should be under-secretaries, or whether there should not be under-secretaries. We feel that those are essentially questions that have to be decided by the Provinces themselves and in accordance with their own conditions.

5963. I merely wanted to know that the Act did not negative that kind of arrangement in the Provinces?—No, it would not.

Sir *Tej Bahadur Sapru*.] There was power to appoint Council Secretaries and such Council Secretaries were appointed at one time in the Provinces.

Dr. *Shafa'at Ahmad Khan*.

5964. Sir Samuel Hoare, would you kindly look at paragraph 70 (b) page 55?—The paragraph relates to the safeguarding of the legitimate interests of minorities. I want to ask you whether His Majesty's Government have come to any definite conclusion regarding the recommendation of the First Round Table Conference concerning their representation in the public services. The Subcommittee made a recommendation in paragraph 4 (2) but the White Paper itself contains no reference at all to the matter, to which all minorities attach very great importance?—I would prefer, if it is equally convenient, Dr. Shafa'at Hamad Khan, to ask that question, if he will put it to me, when we come to deal with the Service questions generally.

5965. Then would you kindly turn to page 37, Fundamental Rights, in the list of Fundamental Rights—I am referring

to the second sentence "His Majesty's Government see serious objections to giving statutory expression to any large range of declarations of this character, but they are satisfied that certain provisions of this kind, such, for instance, as the respect due to personal liberty and rights of property and the eligibility of all for public office, regardless of differences of caste, religion, etc., can appropriately, and should, find a place in the Constitution Act". Now the Landlords' Deputation which waited upon this Committee laid great stress upon the necessity of protecting the rights of property. Have His Majesty's Government framed any formula for the purpose of protecting the rights of the landlords in the new Constitution?—I am afraid the more we have gone into this question of fundamental rights, the more difficult we have found it to be. It is so extraordinarily difficult to put in anything sufficiently explicit to make it susceptible of a legal decision, and without a legal decision the fundamental right is really only the expression of a pious opinion. As to the specific question that Dr. Shafa'at Ahmad Khan has asked me about the landlords, I think we must consider the whole of that question in connection, say, with the franchise, Second Chamber, and so on, and if we are to deal with it, it is much more effectively dealt with in that way than it is by putting in some phrase about the rights of property as a fundamental right in such a way as to make it almost impossible to get a decision from the Courts of Law upon it, or, if you are going to get a decision, to make it so confused an issue that litigation may go on for year after year about it. I have myself, at the former Round Table Conferences, expressed the view that one or two of these general rights might, perhaps, be expressed in the Royal Proclamation that would inaugurate the new Constitution, but over and above that, I do see great practical difficulties in having a long list of them. It is not a question of principle at all; it is a question of practicability.

5966. My point, Sir Samuel, was quite different. I think on that page the promise is distinctly held out that a clause to that effect will actually be embodied

in the Constitution itself, so far as rights of property are concerned, not dealing with other rights at all?—Yes; we have thought about it before. We have not got any clause drafted.

5967. But I hope a clause, as drafted, will be placed before the Committee for its view or discussion later on in due course?—We could certainly think about it, and, if Dr. Shafa'at Ahmad Khan would send us in any suggestions, we should welcome them.

5968. Our difficulty is that there is, I will not say either a legitimate or an unreasonable apprehension, but there is apprehension among certain landlords, not only in my own Province, but also in other Provinces, and they feel that this right must be safeguarded in explicit and precise language, in order that they may be protected in future; and, as they supply an element of stability in the Constitution, I feel that something ought to be done for a class of that character. I am very glad, therefore, to hear that the Secretary of State is willing to present a draft?—I would not dispute Dr. Shafa'at Ahmad Khan's contention at all. It is merely a question of how best legitimate interests can be safeguarded. No doubt it might be a good thing to have a clause somewhere saying that there can be no expropriation of property without compensation; but over and above that I think one wants to consider the question in greater detail from the angle as to whether a general proposition of that kind really will give the kind of safeguards that this or that interest may feel entitled to.

*Lord Eustace Percy.*

5969. I hope the Secretary of State, before doing that, will consider the process involved in the American Constitution?—I had that very much in mind when I spoke just now of the great delays in getting a decision upon points of this kind.

*Dr. Shafa'at Ahmad Khan.*

5970. I think His Majesty's Government do attach importance to the need for consulting the recognised constitutional procedure in the Legislature before a Second Chamber is established later



on ?—Yes, and we have so done, any-how in certain cases.

5971. Not in Bengal, if I may say so ?—In Bengal there was a rather long history about the particular resolution, and I would rather not get into a controversy about it to-day. It did not seem to me to express a very clear view either one way or the other.

5972. It was passed by a majority ?—I know ; but there was some mystery about it, into which I would rather not go to-day.

5973. But I suppose His Majesty's Government will really consult the local Legislative Councils before they make a definite proposal for establishing a Second Chamber in any Province ?—Yes ; we have done that, I think, in every Province, except in Bombay, and we did not do it in Bombay because we were told that the feeling in Bombay was very definitely against the proposal, and there was no point in asking the Legislature to pass a resolution upon the subject.

*Sir Abdur Rahim.*

5974. I should like to know from the Secretary of State whether, under the scheme, it is contemplated that the Provincial Legislatures will not be competent to discuss any acts done by the Governors, or any measures taken by them in the exercise of their special responsibilities ?—My answer would be that they would have no right. The responsibility, after all, is the responsibility of the Governor, and the Legislatures are not responsible for the action that he takes. Whether or not he would give them an opportunity of discussion is a question that must be decided at the time.

5975. But, according to the Constitutional proposals, it will depend entirely then upon the Governor in each case whether to allow any discussions or not, and would that be very practicable to decide ?—To me it seems it was the only possible course. In any case it is the Governor who is responsible and not the Legislature.

5976. You practically mean that they will not be able to discuss any such acts of the Governor ?—I think it is

very difficult to say in advance what will happen. The discretion will rest with the Governor.

*Mr. M. R. Jayaker.*

5977. There is no proposal in the White Paper prohibiting the Governor, if he so chooses, from submitting his act to the criticism of the Legislature ?—None.

*Mr. M. R. Jayaker.*

5978. Then is it contemplated that the Governor, before taking any action, should consult the Legislature or the Minister ?—I would draw a distinction between the Ministers and the Legislature. I am hoping that there would be a great deal of previous consultation between the Governor and the Ministers ; and I am hoping that, as a result of that consultation, these powers will very seldom be exercised. The Governor would, I presume, call the attention to the Minister or the Government to some case that is likely to lead to an infringement of his special responsibilities, and I would have thought that if things were working well, the Ministers and the Government would welcome the opportunity of removing the cause of the trouble, and that the Governors therefore would never have to intervene ; and the action taken, for example, discrimination against a minority, would be stopped in the first instance not by the Governor but by the Minister and by the Ministry itself.

5979. Then would the Secretary of State consider that it may not be practicable to insert in the Instrument of Instructions some clause which would give a lead to the Governor to that effect ?—We are certainly contemplating that phrases should be inserted in the Instructions directing the Governor to work the two sides of the administration in the closest possible co-operation ; and it is just that kind of phrase that I would have thought would have met Sir Abdur Rahim's point.

5980. By "the two sides of the Government", I think the Secretary of State means the special responsibilities and the responsibilities of the Ministers of the Governments ?—Yes.

*Chairman.*] Forgive me, Sir Abdur. as he has an engagement. I shall propose to call him again when we meet  
I am under pledge to the Secretary of State to adjourn sharp at five o'clock, at ten-thirty on Thursday.

*(The Witnesses are directed to withdraw.)*

Ordered, That this Committee be adjourned to Thursday next—10-30 o'clock.

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13th July 1933.

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Present :

The MARQUESS of LINLITHGOW in the Chair.

Lord Archbishop of Canterbury.  
Lord Chancellor.  
Marquess of Salisbury.  
Marquess of Zetland.  
Marquess of Reading.  
Earl of Derby.  
Earl Peel.  
Viscount Burnham.  
Lord Ker (Marquess of Lothian).  
Lord Hardinge of Penshurst.  
Lord Irwin.  
Lord Snell.  
Lord Rankeillour.  
Lord Hutehison of Montrose.

Major Attlee.  
Mr. Butler.  
Major Cadogan.  
Sir Austen Chamberlain.  
Mr. Cocks.  
Sir Reginald Craddock.  
Mr. Davidson.  
Mr. Isaac Foot.  
Sir Samuel Hoare.  
Mr. Morgan Jones.  
Sir Joseph Nall.  
Lord Eustace Percy.  
Miss Pickford.  
Sir John Wardlaw-Milne.

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The following Indian Delegates were also present :—

INDIAN STATES REPRESENTATIVES.

Rao Bahadur Sir Krishnama Chari.  
Nawab Sir Liaquat Hayat-Khan.  
Sir Akbar Hydari.  
Sir Mirza M. Ismail.

Sir Manubhai N. Mehta.  
Sir P. Pattani.  
Mr. Y. Thombare.

BRITISH INDIAN REPRESENTATIVES.

His Highness The Aga Khan.  
Sir C. P. Ramaswami Aiyar.  
Dr. B. R. Ambedkar.  
Sir Hubert Carr.  
Mr. A. H. Ghuznavi.  
Lt.-Col. Sir H. Gidney.  
Sir Hari Singh Gour.  
Mr. Rangaswami Iyenger.  
Mr. M. R. Jayaker.  
Mr. N. M. Joshi.

Begum Shah Nawaz.  
Sir A. P. Patro.  
Sir Abdur Rahim.  
Sir Tej Bahadur Sapru.  
Sir Phiroze Sethna.  
Dr. Shafa'at Ahmad Khan.  
Sardar Buta Singh.  
Sir N. N. Sircar.  
Sir Purshotamdas Thakurdas.  
Mr. Zafrulla Khan.

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*Marquess of Salisbury.*] My Lord Chairman, I understand that the Appendix to Memorandum 29, being a Memorandum on Law and Order by Mr. T. Gavin

Jones, was not printed in our Minutes of Evidence of the 4th of July. I think it would be desirable to print this, if you will agree ?

*Chairman.* Certainly. It is as follows :—

APPENDIX TO MEMORANDUM 29 SUBMITTED BY THE EUROPEAN ASSOCIATION.

MEMORANDUM ON LAW AND ORDER.

By T. GAVIN JONES.

*(Chairman of the United Provinces Branch of the European Association.)*

The problem is one which has to be decided upon with due consideration of the past history, traditions and temperament of the peoples of India, and of the method in which India is governed to-day.

When the secular Government weakens or abdicates, the instinct of the masses of rural India is not towards self-governing institutions, but a shifting of their loyalty towards that class or race whom they think will be strong enough to govern India justly, and protect them from aggression and misrule. The ideal of government of the people by the people for the people has no appeal in the hearts of the masses of rural India. The Hindu social system makes that impossible.

The methods of administration adopted by the British to govern rural India have been, and still are, similar in many respects to those utilised by the great Akbar and the other Moghul Emperors who followed him. It is to-day a benevolent autocracy, sustained by services very largely Indian, but stiffened in the senior executive appointments by recruits from England, who in the ultimate are responsible to the British Parliament, but who in the details of administration are unfettered and are judged by results. Since the introduction of the Montagu-Chelmsford Reforms, they have been greatly influenced by the criticism in the Legislatures, but have been unfettered in the details of their administration, and sustained by the support of the Governors of the Provinces.

The day-to-day administrators of British India are the District Magistrates who, with the Superintendents of Police and a mere handful of assistants control areas as large and populous as British counties. They are looked upon as the local representatives of the "Sirkar," that is, in the minds of the people, the

King Emperor. The principal duties of the District Magistrates, although by no means all their duties, are the collection of revenue and the maintenance of law and order. They are looked upon by the masses as the arbiter of the fate of the people under their control, within the laws laid down by the "Sirkar," are the recipients of the grievances of all the classes, and are personally acquainted with all the men of importance within their districts.

The District Magistrates have direct access to the Governors, who, on occasions, visit the districts and are in close touch with all that is going on, in the Provinces. Much of the information about the Provinces is obtained by the Governors by personal contact and D.O. correspondence, and the Inspector-General of Police and other heads of Departments are constantly in touch with the Governors.

If the responsibility for those administrative functions are transferred to Ministers responsible to the Legislatures, the real day-to-day government of rural India will rest with the Ministers and not the Governors, and the Ministers will be subject to the direct influence and intrigues of the Legislatures. It is true that the White Paper provides that the Ministers will act with the concurrence of the Governors, but the executive will not have direct access to the Governors, their representations will be dealt with by the Ministers. The personal touch of the Governors with the administration, so valuable in the day-to-day government of India to-day, will be gone. No safeguards either in the Act or in the instrument of instructions to the Governors can prevent this. Where the power rests, there will be the initiative and control. Dual control, by making the Governors also responsible, by influence without the real power to control, will be an entirely illusory safeguard.

Agrarian discontent, which often involves the prompt remission of revenue, communal disturbances, breaches of the law, and dacoities (that is pillage and murder in the villages by gangs of outlaws) have to be dealt with by the police,

under the control of the District Magistrates. Any failure to check such disturbance has to be dealt with immediately by the Governor, by the transfer and replacement of any officer incapable of dealing with the situation, or by the transfer of additional staff and police to the affected area. Frequently, disturbances occur in a district owing to weak government in an adjoining district, which has to receive the prompt attention of the Governor.

Personal touch of the administrators with the people is the basis of the peaceful government of India. Once that personal touch is lost, or the administration becomes lax in any way at all, demoralisation will spread rapidly. Let it be thought for one moment that the District Magistrate will not receive support in his administrative acts, then the demoralisation will become general and the police force, both in personnel and arms, will be inadequate to deal with the situation. The administration is upheld by prestige and personal touch, a delicate organisation which cannot, and must not, be tampered with.

To hand over this unique organisation to Ministers who will be subject to the vagaries of Legislature, is certain to lead to deterioration, which will undermine the foundations of the good government of India and will be the abandonment of the responsibilities of the British nation towards the rural millions of India.

It is proposed in the White Paper to hand over this administration, which I have endeavoured to describe, to Ministers individually responsible to a Legislature, who will hold office at the pleasure of that Legislature, and will be subject, not only to the criticism, but to the powerful intrigue of any group in the Legislature, concerning any act of administration. They may even be subject to the intrigue of their fellow Ministers, for there is no provision in the White Paper for collective responsibility, which gives so much stability to the British Cabinet.

Even if collective responsibility is adopted in principle, in times of stress, there will be intrigues in the Legislatures against the Cabinet, and pressure brought to bear on Ministers to placate the Legislatures by dealing un-

wisely with administrators, who may have done nothing more than carry out their duty, unpopular though it may be with certain sections of the people. In my experience in the Legislatures, both in the United Provinces Council and Central Assembly, I have seen that there is nothing which arouses excitement in the Legislature to a white heat as a communal disturbance, and the administrators come in for severe, and usually unreasoned, criticism from one community or the other.

If the administration is to remain strong, and free from interference from the Legislatures, there must be a fixed Executive selected by the Governor, preferably from the Legislatures, for the period of the life of the Legislatures responsible for the day to day administration to the Governor only, the Executive Head of the State. The Legislatures by the making of laws, criticism, and the voting of supplies, will control the policy of the administration and will have as much power as it is advisable for any Legislature to have in a country like India, composed of such heterogeneous peoples. It is as much power as the Legislatures have in most of the countries of Europe and America. The separation of the executive and Legislative functions is the only method by which India can progress in safety. The Cabinet system of Government is totally unsuited to Indian conditions.

If a fixed Executive is decided upon, the control of the Legislatures over the policy of the Executive can be enhanced by giving the Legislature power to remove a Minister, and impeach him by a vote of censure of two-thirds majority of both Houses, in which case, the Governor will select another Minister who has the confidence of the Legislature. The balance of power between the Legislature and the Governor can be discussed and settled by constitutional Lawyers; there are ample and varied examples in existing constitutions with a fixed Executive.

In the Centre the White Paper, very rightly, proposes to separate the Executive functions of the Reserve Bank, Railways and Ports by establishing executive Boards, in order to prevent political interference in the day to day administration. As it is the first duty of a

Government to maintain law and order, it is surely more important than anything else that the Executive functions of the administration of law and order should be separated from the Legislature.

This is no new theory, it has been adopted in various ways in America, Germany and France. In England it is a convention, in spite of the right of the Legislature to interfere. But the English Constitution is not a written Constitution, it has been evolved from centuries of experience. It is futile to imagine that the same conventions will be adopted in India where the conditions and temperament of the people are totally different, and where administrative methods are unique and totally different to anything in Europe. Are we going to graft a British unwritten Constitution on to India, in a rigid written form, with the slender hope that British conventions will be adopted and practised?

It must be remembered that the Indian Legislatures do, and will, function quite differently from the British Parliament. There will be no two party, or even three party system, the Legislatures will be split into small groups largely on communal and racial lines, and it will be difficult for any group of Ministers to hold together a strong party for any length of time. Intrigues on personal lines are common to-day, and will be worse in the proposed new Constitution.

The fact of the matter is, that a purely democratic form of government on the British model is impracticable in India. Communal electorates are necessary, but are contrary to all democratic principles, and we are apparently to have communal representation in the Cabinet also.

In considering the adoption of the British methods of government in the provinces of India, as suggested in the White Paper, the temperament of the peoples of India must not be overlooked. The parliamentary method of Government on the British model have not been adopted in any country outside Great Britain and the Dominions. In many countries parliamentary institutions are being abandoned.

Some countries cannot of themselves evolve any stable form of government. China is a case in point, not because the

Chinaman is in way inferior individually, but because they are not homogeneous, and since the destruction of the Imperial autocratic power, have been unable to unite. It takes centuries to evolve homogeneity. It took centuries to evolve a united nation in Great Britain, Germany and France. India is far from being homogeneous, and therefore the British Raj, or some other strong outside power, must remain to keep India united. The British Raj will not be able to remain if the foundation of the good administration of the Rural masses is undermined and destroyed.

The divisions of the peoples of India are not only numerous but profound. They have no natural love of political liberty, they like and expect to be ruled by a class. They have no natural respect for Law and Order which cannot be maintained if the ruling class are not strong enough to enforce it, as was evident during the civil disobedience movement, to which there was no effective opposition among the people. Corruption, if not discovered and punished by the ruling class, is an offence easily condoned. The people are emotional and easily led astray.

Lord Balfour, in his introduction to the new edition of Bagehot's English Constitution, says :

"Constitutions are easily copied, temperaments are not; and if it should happen that the borrowed constitution and the native temperament fail to correspond, the misfit may have serious results. It matters little what other gifts a people may possess, if they are wanting in those which from this point of view are most important. If, for example, they have no capacity for grading their loyalties as well as for being moved by them; if they have no natural inclination to liberty, and no natural respect for law, if they lack good humour and tolerate foul play; if they know not how to compromise and when; if they have not that distrust of extreme conclusions, which is sometimes mis-described as want of logic; if corruption does not repel them; and if their divisions tend to be too profound, the successful working of British institutions may be difficult or impossible."

I have endeavoured to describe the traditions and the temperament of the peoples of India, and the existing government of India, with no object of retarding political advance, or with the object of continuing the government of India from Whitehall, but with the object of giving India a form of government which will ensure stability and continuity of administration, and which should enlist the co-operation of politically minded India in the future government of India. The policy of the internal government of India should be controlled by India, so long as there is no attempt at a breakaway from the British Empire, and the power of Great Britain remains to keep India united, to uphold the rights of the existing Indian States, to prevent racial discrimination, and to ensure that the rural millions are well and justly governed. This, in my opinion, is in the best interests of India herself, and can only be attained by maintaining a direct chain of responsibility for the administrative government from the District Magistrates to the Viceroy, the representative of the King Emperor.

The administrators can be Indian, but they must not be subject to interference in their administrative functions from the Legislatures. After all, what politically minded India really wants, is not so much democratic Government as government of India by Indians. This can be given full scope of development through the Legislatures, on the legislative side of government. The Executive side of government must remain in the ultimate the responsibility of the British Nation until such time as India becomes homogeneous and really a united nation.

The national spirit in India is only beginning to develop. India is not yet a Nation.

The Army and the police are loyal to the Sirkar, not to any institution. Undermine that loyalty, and the government of India will collapse. An Act of Parliament may lay the foundations of destroying that loyalty, but no Act of Parliament can suddenly transfer that loyalty to an institution.

Rural India requires personal government. The District Magistrates have on many occasions had to call upon the Army for support, and since the Army is to be responsible to the Viceroy, it is only logical that the Magistrates and the police should be responsible for their actions in the maintenance of law and order to the same ultimate authority.

This proposal does not mean going back, but going forward on lines adapted to the traditions and temperament of the peoples of India.

I am in agreement that the Act should provide for the transfer of Responsibility in the Central Government because the Executive functions of the Army and Foreign affairs are to be reserved for the Viceroy, but Federation should not be forced through until the Provincial States are established and working smoothly. It is a platitude to say that the foundations must be built before the roof can be put on. The Constituent States will be the foundation of the Federal Government. The proposal that I make regarding law and order I believe is more likely to ensure the smooth working of the Constituent States than any other form of government, and thereby the attainment of Federation accelerated.

The Right Hon. Sir SAMUEL HOARE, Bt., G.B.E., C.M.G., M.P., Sir MALCOLM HAILEY, G.C.S.I., K.C.S.I., and Sir FINDLATER STEWART, K.C.B., K.C.S.I., C.S.I., are further examined

Sir *Abdur Rahim*.

5981. The Secretary of State, in answer to a question of mine, assured us that he was considering whether you should not put in some phrases requiring close co-operation between the Governor and the Ministers. Then another question I should like to ask him in this connection is this: Whether it is not

equally necessary, if it can be provided, that there should be close co-operation between the Governor and the Legislature also. I find it is provided that the Governor will, whenever he likes, address the Legislature. The difficulty I am feeling is that if there is disagreement, as may sometimes happen, between the Governor and the Ministers regarding the exercise of any special responsibility of

the Governor, the Minister has got either to agree with the Governor or to resign. Is not that the position?—(Sir Samuel Hoare.) I did not quite follow Sir Abdur Rahim's question, I am afraid.

5982. I mean, if any question arises as to the necessity of exercising his special responsibility by the Governor, and if the Ministry or the Minister concerned is unable to accept the view, then either the Minister must get the support of the Legislature as regards his action or must resign. Would that not be the position?—No, I do not think those would be the only two alternatives. I think there is the third possibility of the Ministry and the Legislature accepting the Governor's decision, and the Ministry continuing in office. I think it would depend very much upon what importance the Ministry attached to the particular case.

5983. We can well suppose that the question of the exercise of any of the special responsibilities will only arise in important matters. The difficulty which I am experiencing is that if the Ministers have to carry the Legislature with them as regards that matter they will have to consult the Legislature. Is that not so?—Again I am not quite clear as to the exact case that Sir Abdur Rahim is contemplating. If he is contemplating a case in which the Minister desires to obtain the support of the Legislature, then it seems to me that there is no need for the intervention of the Governor. It is a question between the Ministry and the Legislature, and I do not see upon what ground the Governor could, or should, intervene.

5984. That is the difficulty, really, that I am feeling, that if the Ministry cannot get the support of the Legislature for the action proposed by the Governor, then, in that case, the Minister will be forced to resign?—Yes, I think in certain cases that might happen.

5985. May I draw your attention, Sir Samuel, to proposal 67 of the White Paper, page 55? I take it that it is contemplated that the person who commands the largest following in the Legislature must have that following in both the Houses combined?—It is very difficult to make a precise definition, but quite obviously we contemplate the Member of one or the other Chambers who

has got the largest body of Parliamentary support.

5986. Both Houses combined, I take it?—Certainly; that goes without saying. It would not be much good, assuming that a man had the greatest Parliamentary support when he had a certain amount of support in one Chamber and had very little in the other.

5987. Yes, that is exactly what I wanted to clear up. Then who will have the distribution of the Portfolios? Is it the person with the largest following, or the Governor?—In theory, the Governor; but in a case of this kind we wish to leave the situation elastic. I think as Parliamentary practice develops more and more, I would imagine, it will develop on British lines, but for the time being, we wish to leave the position as elastic as possible.

5988. That is to say, you do not want to specify the authority who will distribute the Portfolios at present?—Constitutionally, the appointments originate in the Governor, but exactly how far the Minister who has the greatest following in the Assemblies will intervene in the position must be a matter of development, and must depend upon the situation in the particular Province.

5989. Then, as regards Proposal 70, that is the paragraph relating to special responsibility, I wish to draw your particular attention to heads (a), (b), (c) and (d). There the question is not so much of information as to what is happening, but a question of opinion whether the occasion has arisen when any of these powers has to be exercised?—Yes. It is more than a case of opinion in (c), I think. There the rights of the Services are, to a great extent, explicit, if you accept the general definition of the rights of the Services upon which the proposals of the White Paper are based.

5990. May I clear this up? Public Services there include all Services to which appointments are made by the Secretary of State or the Governor-General?—No; (c) goes further than that: it is all the Public Services.

5991. The procedure then would be, I suppose, that the matter would go, in the first place, to the Public Services

Commission and then to the Governor. Is that the idea?—It is very difficult to make a general answer to a question of that kind. I can quite imagine that certain cases would go to the Public Services Commission, but I would not like to say that all the cases would go to the Public Services Commission. I can also imagine that in quite a large number of cases there would not be any need for the cases to go beyond consultation between the Governor and his Ministers. I am relying upon these provisions being worked in an atmosphere of common sense, and I believe myself that in many cases all that will be necessary will be for the Governor to call the attention of his Ministry, or of one of his Ministers, to a particular infringement, or to what he thinks is going to be an infringement, and I believe that action will then be taken that will render it unnecessary for the Governor to intervene on his own initiative over the heads of his Ministers or his Ministry.

5992. Then do I understand that you do not propose to define the spheres of the Public Services Commissions or the Governors or the Ministers in this respect?—We have set out the rights in one of the Appendices.

5993. Appendix VII, I think, page 120?—Yes.

5994. That is relating to persons appointed by the Secretary of State in Council. Then page 121, Part II, relates to persons appointed by other authorities. I mean, there is no definition of the spheres of jurisdiction there, is there?—I am quite ready to give general answers about the relations of the Provincial Governor to the Services, but I would, myself, prefer to deal with the details connected with the Services in a more explicit discussion. I am quite ready one day next week to take up the whole chapter of the Services, and to deal in detail with the Appendices and with the conditions generally. I would suggest that it would be better to do it then rather than to interpolate a rather technical discussion of this kind into a field of discussion that is really of a wider and more Constitutional character.

*Chairman.*] I feel sure that the Committee and the Delegates will accept that suggestion.

*Sir Abdur Rahim.*

5995. Yes; I will not press you further upon that. As regards the Second Chamber, I wish to clear up one thing. I think the Secretary of State has already told us that there may be difficulty in obtaining the proper personnel for both the Houses in some Provinces—sufficient personnel. I think you told us that on the last occasion?—Yes.

*Sir Austen Chamberlain.*

5996. May I just get the Secretary of State's answer quite clear in my mind? I understood at the time the original answer was given, it applied to the Provinces in which the White Paper did not propose a Second Chamber, but he had no doubt about the power to get the right men in those Provinces in which a Second Chamber is proposed?—Yes, that is my view.

*Sir Joseph Nall.*

5997. Does that apply to the Presidency of Bombay?—In the case of Bombay, there are other considerations to take into account. I think, myself, that the argument that I used about the personnel and the difficulty of obtaining sufficient personnel at the outset for two Chambers, would not apply to Bombay.

*Sir Abdur Rahim.*

5998. May I suggest that there may be other Provinces or Presidencies like that; take, for instance, the Punjab. I am not suggesting that there should be, as a matter of fact. My own view is that it would not be advisable to have a Second Chamber anywhere, but what I am suggesting is, is there any really good ground for differentiating between one Province and another and to say that there is more material in one Province than in another?—I did not base my argument principally upon the question of personnel at all. In answer to Sir Austen Chamberlain, I was giving him a number of reasons that have got to be taken into account when we consider the question of Second Chambers, and I think everyone in this Room, most of all the Indian Delegates, can judge for themselves as to the personnel question. My own personal view is that in certain of the Provinces, at any rate in



the early chapters of the Constitutional changes, it might be a cause of difficulty, and it certainly would be a cause of expense to provide the personnel for two Chambers. I do not put the argument higher than that.

5999. I think one question was put by Dr. Shafa'at Ahmad Khan in this connection, whether it is intended by the Secretary of State to obtain opinion as regards the advisability of instituting a Second Chamber, for instance, in Bengal, where there has been a majority, of at any rate, one, I believe it was, against the institution of a Second Chamber?—I have done my best to collect opinion from all the Provinces, whether it be through the channel of Resolutions in the Council, or whether it be through other channels. My own view about Bengal is that there are special conditions there that make it peculiarly necessary to consider people's anxieties and to give them what reassurance we can with a view to remove their anxieties, and, that being so, it seemed to me, taking one consideration into account with another, that it was wiser to have a Second Chamber in Bengal.

6000. I do not want to press the Secretary of State, unless he himself desires to elaborate that any further regarding Bengal. I leave it entirely to him?—I do not think there is any need for me to elaborate it further. I think the kind of anxieties that are felt with reference to, at any rate, the immediate future in Bengal, are probably in the minds of every Member of the Committee and every Indian Delegate.

Dr. B. R. Ambedkar.

6001. Would you say the same thing with regard to the United Provinces and Bihar?—I would not say the anxieties were the same. Sir Malcolm Hailey reminds me that in the case of the United Provinces, the Council passed a Resolution in favour of a Second Chamber.

Dr. Shafa'at Ahmad Khan.

6002. Yes?—They also passed a Resolution in favour of a Second Chamber by a very big majority, as far as I can remember, in Bihar and Orissa. Further than that, if my memory is correct, I think the Provincial Committees that sat

with the Simon Commission recommended Second Chambers in both those cases.

Sir Abdur Rahim.

6003. May I draw the attention of the Secretary of State to proposal 75, regarding the Governor's power to dissolve a Provincial Legislature at his discretion: May I take it that before he takes any such step, he will consult the Ministers?—Here again we feel we must leave the position elastic. We believe that in actual practice it will work very much upon the lines of Constitutional practice here, but we do feel, in view of the fact that the Governor has this field of special responsibilities, that we must leave a certain amount of elasticity.

6004. Now, Proposal 88, page 60: These are the special powers of the Governor, that is to say withholding assent from any Bill, or reserving a Bill for consideration of the Governor-General, and remitting a Bill to the Legislature with a message requesting their consideration. Is that general or is it only in exercise of his special responsibility?—Here again, the answer I gave to Sir Abdur Rahim's previous question is equally applicable. We believe that in practice these powers will tend to develop upon the lines upon which they have developed here, but we feel that we must leave certain elasticity for the same reason that I gave in answer to the question that he just asked me.

6005. As it stands, it is not confined to the question of special responsibility?—No.

6006. I want to know from the Secretary of State whether he has compared, as regards Proposal 103, regarding Ordinances—whether the terms of the proposal are not really wider than Section 72 of the Government of India Act. I mean, apart from the question that under that section it is only the Governor-General who can pass Ordinances and not any Provincial Governor, I think at a previous stage the Secretary of State gave us the reason why he has conferred these powers on the Governors of the Provinces also, but I want to know from him whether he has considered that the circumstances in which the Governor can issue Ordinances, cover really a wider field than even the present Government of

India Act ?—It is difficult to make a general answer to a question of that kind, for this reason : Under the Government of India Act there is no such field as the field of special responsibilities, and the existence of that field must make a difference in the way in which you express the power of the Governors to issue ordinances.

6007. I think under the Act, if I remember correctly, it is in cases of emergency ?—Yes. As soon as it is admitted that there must be a field of special responsibility then you must obviously give the Governor the power for carrying out those responsibilities, otherwise the list of special responsibilities is simply a paper list with no sanction behind it. We have felt as a result of that fact our previous discussions in the Round Table Conferences that something in the nature of an ordinance-making power and a legislation-making power was quite essential if these safeguards were to be more than paper safeguards.

*Sir Hari Singh Gour.*

6008. Speaking on the broad Constitutional issue relating to the Provinces, will the Secretary of State be pleased to state that his proposals do amount to the grant of Provincial autonomy in all the Provinces ?—Just repeat that question, Sir Hari Singh Gour. I am not quite sure that I followed it.

6009. Taking up first the broad Constitutional issue, do I understand the Secretary of State to say that there would be Provincial autonomy in all the Provinces under the scheme of the White Paper ?—Yes.

6010. Is it, or is not a fact, that the ultimate control in the Provinces rests in the Governor ?—Constitutionally, yes, but that does not mean that in actual practice there is not a great field of responsibility for his Ministry.

6011. I started by saying that I was at the present moment concerned with the Constitutional issue and not with how it will work in practice, to which I shall come presently ?—I do not quite see the implication that Sir Hari Singh Gour wishes to draw from my answer. It would be equally true to say that constitutionally ultimate power rests with the Crown in England.

6012. So far as Provincial autonomy is concerned the finality in the matter of deciding questions of policy and action in the Provinces would finally rest with the Governor of the Province ?—No, I would not at all give a general affirmative to a question of that kind. We are contemplating that in the field of responsibility the Provincial Government will be responsible.

6013. Would the Secretary of State be pleased to state with reference to the paragraphs we have under discussion, namely, paragraphs 61 to 109, any matter in which the decision of the Minister would be final ?—All the matters that are not trench upon the field of special responsibility—a very wide field.

6014. Would the Minister in those cases be able to give a final decision without any control or without any power of revision by the Governor ?—Certainly, if they did not trench upon the field of the special responsibilities.

6015. Of which the Governor would be the sole judge ?—Yes.

6016. And the Governor in this matter would be guided by and would be subject to the directions, supervision and control of the Governor-General ?—Yes, constitutionally, that is the state of affairs.

*Marquess of Salisbury.*

6017. Might I interpose, not by way of criticism : The Secretary of State very often uses the word "Constitutionally." He does not mean that to be as distinguished from actually and practically ?—No, not at all, but I do want to make the distinction when one of the Committee, or the Delegates, is making an argument based very much upon constitutional theory, that there is often a difference between the constitutional theory and the constitutional practice.

*Sir Hari Singh Gour.*

6018. I am coming to the constitutional practice in a moment. I started first by saying, Let us go into the constitutional theory. We shall find how it is modified by constitutional practice, and, I venture to submit, so far as the White Paper is concerned, there will be no dissonance between constitutional theory and constitutional practice, and I hope

to show you that. Resuming my question : As the Governor is subject to the supervision, direction and control of the Governor-General, the Governor-General is subject likewise to the direction, supervision and control of the Secretary of State ?—Yes, certainly.

6019. And on top there is the shadowy control by Parliament ?—I do not know that I would take responsibility for the epithet. In fact, I do not think I should.

6020. So far therefore as the Provincial autonomy is concerned, speaking on the subject of constitutional theory apart from practice, the ultimate power does rest, and continues to rest, with Parliament, the Secretary of State, the Governor-General and the Governor ?—In the field of special responsibilities.

6021. But have I not started by saying that there is no field so far as these paragraphs are concerned where the Governor's power ends, and where the Minister's responsibility is final and conclusive ?—Sir Hari Singh Gour can have his view ; I have mine. I regard the field of special responsibilities as a definite field.

6022. Who is to be the judge of what is in the field of special responsibility ?—It is not any good my going on answering the same question time after time. I have already said the ultimate responsibility is with the Governor and the Governor-General.

6023. And they are the sole judges ?—I have already answered it twice.

6024. Taking the question from theory to practice, how would the practice differ from the theory in the actual working of the Provincial Constitution ?—Would Sir Hari Singh Gour make his question a bit more precise ?

6025. My question is : What is the difference in the White Paper that divides constitutional theory from constitutional practice ?—I would suggest that we are really getting into a metaphysical discussion. If Sir Hari Singh Gour would make his questions precise, I would give precise answers to them.

6026. The question I asked was that in practice the Governor would be guided by the constitutional theory which is really his sheet anchor, and, in guiding the proceedings of the Provincial

Government, he will be guided by what are his inherent rights of ultimate control in the Provinces ?—I am afraid, my Lord Chairman, that Sir Hari Singh Gour and I take very divergent views of the way in which these proposals are going to work. He assumes that the theory will be applied in a strictly legal and inelastic manner ; that is to say, that on the one hand there will be a Governor pushing to the full and to the last letter of the contract every one of these special responsibilities ; working in a watertight compartment apart from his Ministry. I do not assume that state of affairs at all. I assume the Governor and his Ministry normally working in close relations with each other and in friendly relations with each other, and I do not believe this extreme kind of dyarchy is actually going to arise in practice.

6027. As regards the large question of services, apart from the technical questions which we will reserve for future consideration, if there is to be a Provincial autonomy does not it follow that the services should equally be provincialised ?—As practical men, we have to take into account the conditions as they are. One of the basic conditions of our proposals (we believe it is a proposal as much in the interests of India as in the interests of the services themselves) is that the contracts with the services should be kept and that India should have the great advantage of a highly efficient Civil Service, particularly in the early and difficult years of its development.

Sir *Hari Singh Gour*.] Is the Secretary of State aware of what the Lee Commission decided on the question of the transferred field ?

Mr. *Zafrulla Khan*.] Had not we better discuss that when the services are under discussion ?

Sir *Hari Singh Gour*.] I am not dealing with the details of the question ; I am only dealing with the broad question.

Mr. *Zafrulla Khan*.] Why not deal with the broad question also when the services are under discussion ?

Sir *Hari Singh Gour*.

6028. I am quite prepared to do that. Is the Secretary of State prepared that we should take up this question when

we are dealing with the services?—It is whatever the Committee likes. I believe that would be the more convenient course.

6029. I should like to know something about the powers and functions of the Governor's secretary. What will be his position *vis-a-vis* the Ministry and the Legislature?—He will not have any constitutional position in face of the Ministry and Assembly at all. He will be the personal representative of the Governor.

6030. He will be something like a Deputy Governor, do I understand it?—No.

6031. Will he be the mouthpiece of the Governor?—I should think very often.

Mr. M. R. Jayakar.

6032. Is there any proposal in the White Paper about the Governor's secretary?—No; the only proposal is that the Governor is to have what staff he requires.

Sir Hari Singh Gour.

6033. Referring to the question of Law and Order in the Provinces, it has been suggested that two proposals have been made, and one of them appears to have been acceded to subject to further consideration by the Secretary of State, and the other was replied to by Sir Malcolm Hailey, that it is proposed to separate the rules into the Governor's rules and the other rules. Taking the first question about the reservation of the Special Branch and taking it out of the control of the Ministry, what is the object that the Secretary of State has in view? Does he think that the reservation of the Special Branch by the Governor would be conducive to the improvement of the present state of Law and Order in the Provinces?—It is impossible to give a general answer to a question of that kind. What was in my mind was that in the event of a grave emergency, or in the event of conditions that made it clear to the Governor that a particular course of action of this kind was necessary, the Governor should have the necessary powers to take that action, and we have given him implicit powers to that effect under the provisions of the White Paper.

6034. Yes, thank you. But is it necessary to go beyond the terms of the White Paper in arming the Governor with any special control over the Special Branch of the Police?—That is very much a question for subsequent discussion. We have under the proposals of the White Paper gone upon the general line of giving general powers of this kind, to be applied where they are necessary. The other alternative that has been suggested to us in a good deal of the evidence and in the course of our discussions is to make those powers more explicit. That seems to me to be essentially a question for the Committee to consider.

6035. I see there is an underlying current of thought in several questions addressed to the Secretary of State on the last occasion to the effect that unless some special provision is made in the Constitution Act for the safeguarding of Law and Order, it is likely to be endangered if under the Ministry. Is that the view that the Secretary of State takes?—I could not possibly base an answer upon the impression that certain questions have made upon a particular member of the Committee or upon a particular Indian Delegate. I could not give an answer unless I were asked a precise question.

Sir Hari Singh Gour.] The precise question I wish to ask is this: In answer to a question that was put to the Secretary of State the other day—it was a question regarding the Special Branch of the Police; I think it is a question—

Chairman.] Could you put your point specifically without regard to a question that has already been asked?

Sir Hari Singh Gour.

6036. Yes, my Lord. The question I wish to put is this: What does the Secretary of State think of the preservation of Law and Order under the present system of Government since, we will say, 1905 down to date? Does he, generally speaking, think that the present Government have been able to bring it under control in the Provinces where there have been periodic recrudescences of terrorist crimes and general menace to the peace and liberty of the people?—I think they have done wonderfully well in view of the difficulties.

6037. And does he not think that the Minister of the future, when armed with that responsibility, will do even better than the present Government?—I always go on hoping that there will be an improvement everywhere in the world.

6038. Then why not trust the Minister to deal with the question of Law and Order?—That was the basis of my argument the day before yesterday, when I said that we had made proposals in the White Paper for the transfer of Law and Order.

6039. But why reserve anything at all which would be useful to him in preserving Law and Order—any branch of the Police which may be necessary for the purpose?—Because we believe there may be certain circumstances that may necessitate exceptional action.

6040. Dealing with the question of bicameral legislation, the question of bicameral legislation in the Provinces has been the subject of inquiry from 1928 when the Simon Commission went into that question?—I am quite prepared to accept that statement.

6041. And that the Simon Commission made no recommendation for the establishment of bicameral legislation in the Provinces?—If my memory is correct, there were two views about Second Chambers then, just as there are two views about Second Chambers now.

6042. What I am meaning is, that the Simon Commission made no recommendation?—Yes, it is so; they made no definite recommendation. Is that so?

Viscount Burnham.] They said they could not come to any unanimous decision.

Sir Hari Singh Gour.

6043. Therefore, I say they made no recommendation. That is the point I am making?—That would be a correct inference to draw, no doubt.

Viscount Burnham.] They could have made a recommendation, but it would not have been unanimous.

Sir Hari Singh Gour.] But they made no recommendation; that is the point I am making.

Sir Austen Chamberlain.] That point has been clear for some time and was stated the other day.

Sir Hari Singh Gour.

6044. What has happened since the Report of the Simon Commission to alter the view which now finds its place in the White Paper?—What has happened is that we have never stopped having Inquiries about Constitutional questions for any day or any month since the Statutory Commission issued its Report.

6045. Is not the Secretary of State aware that in places where the Second Chambers are proposed to be established, the anxieties felt are mainly concerned with the preservation of what is known as "vested interests"?—No, I would not accept that conclusion at all.

6046. Would not the establishment of a Second Chamber bring in the principle that Members who represent the few will control the policy of those who represent the many?—I do not think so.

Marquess of Lothian.

6047. Secretary of State, may I just ask one question to clear that up. As I understand, the Electorate for the Second Chamber, under the White Paper proposals, is the same as for the Lower House. If you look at the Appendix on page 92 of the White Paper: "17 directly elected from constituencies for which only Muslim voters will be qualified. 34 directly elected from general constituencies for which all qualified voters other than Muslims will be entitled to vote". Is that not correct?—I do not think I could say that that was exactly accurate. I have always contemplated that the elected members of the Second Chambers would be elected upon a higher franchise.

Marquess of Lothian.] The White Paper does not specify that.

Major Atlee.

6048. May I point out that Appendix V on Page 113 says it is intended that the franchise shall be based on high property qualifications?—It would, however, be fair to add that this question was considered at the First Round Table Conference at some length, and Second Chambers were proposed for three Provinces, and there was a great measure of support for those proposals at the First Round Table Conference. I did not say it unanimous; I said there was a

large body of support behind the proposals.

*Sir Hari Singh Gour.*

6049. In any case, under the scheme of the White Paper, the Second Chamber would contain an element of nominated members ?—Yes.

6050. And that again was condemned by the Simon Commission, that the nominated *bloc*, for reasons given by them, should go ?—I do not see how that can be so. We have just heard that the Simon Commission made no recommendations for Second Chambers at all.

6051. I was dealing with the general question of keeping no official *bloc* in the Legislature ?—There is no intention to keep an official *bloc* in either Chamber.

6052. I thought that in Bengal 10 members were to be nominated by the Governor at his discretion ?—It does not in the least follow that those members would be in an official *bloc*. I do not contemplate that they would be in an official *bloc* at all.

Mr. Butler.] There is a specific provision which says that serving officials would not be eligible for nomination.

*Sir Hari Singh Gour.*

6053. They will be nominated members ?—It does not follow that nominated members form an official *bloc*. If it did, every English gentleman who was created a Peer, would immediately become a member of an official *bloc*. That is not the case.

*Sir Tej Bahadur Sapru.*

6054. The Government has liberty to nominate a non-official ?—Certainly.

*Sir Hari Singh Gour.*

6055. I understand that the Secretary of State is now dealing with the Constitutional practice, apart from the practice as we find it now occurring in the Legislative Assembly elsewhere ?—No.

6056. Is the Secretary of State aware that official whips are issued to nominated members in the Legislative Assembly ?—I do not know whether that is so, or not. I do not see its application to the particular question we are considering, namely, the constitution of

the Second Chambers in three or more Provinces in future.

*Sir Phiroze Sethna.*

6057. Mr. Secretary of State, you told us the other day that you would endeavour to submit a draft of the Instrument of Instructions to the Committee. May we know if it is possible to have that draft ready in time for the Indian Delegates as well to see the same and express their opinion upon it ?—The difficulty with anything in the nature of a final draft is due to the fact that our discussions are not ended, and it may well be that the Committee will desire things to be inserted in the Instructions or omitted from the Instructions, about which I do not know now. We have put in the White Paper our suggestions for the Instructions ; if we can amplify them in any way, as a result of these discussions, I will see if we can do so, but we cannot possibly put in a draft of the final opinions of the Committee until the Committee has ended its deliberations.

6058. That means that we shall not know the contents of it ; we shall not be able to give our opinion upon it. Was any Instrument of Instructions in the past placed before Parliament ?—No.

6059. The White Paper states that the Instrument of Instructions will assume a position of great importance as an ancillary to the Constitutional Act. You say it will be placed before the two Houses ?—Yes.

6060. Which will give it the elaborateness of a Parliamentary statute, yet in answer to Lord Eustace Percy, you said the other day that it will have no legal validity ?—No, I do not think I said that, did I ? I should like you to refer me to the question, and the answer I gave, because I do not remember what I said.

6061. Never mind. May we take it then that the Instrument of Instructions will have legal validity ?—It has sanction, to this extent, that nothing can be inserted in the Instructions that is not within the framework of the Act. The Instructions cannot go outside the Act. The Act, therefore, has full legal validity, and the Instructions must be within that framework.

6062. Then there are more than recommendatory ?—They are the interpretation that the Government and Parliament place upon the provisions in the Act.

Marquess of *Salisbury*.

6063. But they are more than recommendatory ; they are mandatory, sometimes ?—They are mandatory ; but I understood Sir Phiroze Sethna's question to deal with the definitely legal aspect, as to whether they were statutory, or not. They are certainly mandatory.

Mr. *Zafrulla Khan*.] If I might intervene for one moment, I think, so far as I can follow Lord Eustace Percy's questions on this, they had this trend : Supposing the Instrument of Instructions gives certain directions to the Governor, so far as the Governor is concerned, no doubt they are mandatory in the sense that he is charged by His Majesty to do certain things and to take care that certain things are done in a certain manner, but Lord Eustace Percy's question was whether in the event of the Governor failing to carry out his, a suit could be based upon the Instrument of Instructions, and then the aspect would be this : Those are directions from His Majesty to the Governor. They are not a Statute in the sense that they provide rights and liabilities for the subject on which he could base a suit. If I might venture to put forward an opinion with the greatest deference, I think it would be this : The Governor would be bound to carry them out, and his responsibility with regard to them would be to His Majesty or to the Secretary of State, and so on ; but I do not think with regard to the civil rights and liabilities of the subject, either between subject and subject or between subject and the State, the Courts could take cognisance of it.

Marquess of *Salisbury*.

6064. May I put it in this way : Could the subject plead the Instructions in a Court of Law ?—My answer would be, no.

Sir *Phiroze Sethna*.

6065. Then there is no legal validity ?—There is the legal validity of the Act upon which the Instructions are based.

Marquess of *Reading*.

6066. Secretary of State, you would agree, would you not, that the Letter of Instructions, apart altogether from an Act of Parliament—that is the Letter of Instructions issued by the King to the Governor-General or the Governor is in that sense, that is, in the proper sense of the term, mandatory ?—Certainly.

6067. He must obey it ; it is not a mere recommendation ?—Certainly.

6068. It is a definite instruction, and it is called a Letter of Instructions, for that reason. If I followed it correctly, just to try to clear the strict legal point, your observation is that the Letter of Instructions will always be the Letter from His Majesty ?—Yes.

6069. And will, consequently, always remain in the same category as formal Instructions by His Majesty, but certain things will be prescribed by Act of Parliament which will be the view of Parliament as to what should be included in the Letter of Instructions. That is right, is it not ?—Yes, I think it is substantially so.

6070. And that, of course, must depend—I mean, what is to be put in the Letter of Instructions can never transcend in that sphere what is already in the Act of Parliament ?—That is so.

6071. The Letter of Instructions must really conform with the obligations imposed by the Act of Parliament, and then, when the Letter of Instructions is issued by the King it will, of course, carry out what is said in that form with any other Instructions not inconsistent with what the Secretary of State would advise the King should be issued. That is the true position, is it not ?—Yes, that is, generally speaking, the case.

Marquess of *Salisbury*.] Perhaps, Lord Reading would indicate—no man can do it better than himself—to the Committee if there was a lawsuit which turned upon the Act of Parliament, could it be pleaded as a valid explanation of the Act of Parliament that certain things were contained in the Instrument of Instructions ?

Marquess of *Reading*.

6072. No, I should say not, because the Letter of Instructions, the Instruc-

tions of the King, are not part of the Act of Parliament. What I do suggest is that the subject would equally have his rights, because if the Letter of Instructions must not transcend any matters provided what is already in the Act of Parliament, then he has got his rights under the Act of Parliament for a breach of the Statutory rights conferred upon him, and that is what I understand is the Secretary of State's view?—Yes, that is, generally, the position; and if I may give a concrete instance in answer to Lord Salisbury's question: Supposing a subject wished to obtain redress upon the ground of discrimination against a minority, he would not base his case upon the Instructions, which would be the Instructions to tell the Governor how to apply the particular provisions in the Act, but he would base it upon the clause connected with the special responsibilities of the Governor, which would have statutory effect.

*Sir Tej Bahadur Sapru.*

6073. May I put it to Sir Samuel, that it would be extremely dangerous for anyone, without an actual suit arising, to commit himself to any particular view; that a Court of Law might take a view which we do not imagine to be possible now; and, in point of fact, the Instrument of Instructions has played a very great part in the development of the Constitutions in the Dominions. There are cases in which Instruments of Instruction have been referred to. Therefore, I say it would be very dangerous for anyone to assume what view the Courts of Law might take, until you have the concrete facts?—Yes, except to this extent, that here the case does somewhat differ from the kind of cases that Sir Tej has in mind, does it not, from the fact that there is this list of special responsibilities in the body of the Act. I would have thought—I speak with great deference in the presence of big lawyers such as we have got here to-day—that in a case of that kind both the Court and the complainant would base their case upon the provisions in the Act, rather than upon anything outside the Act.

*Sir Tej Bahadur Sapru.*] But I did not exclude the Instrument of Instructions altogether—that is the point. The point I am making is that the Instruments of

Instruction which you are providing are statutory Instruments of Instruction. There is no reference to the Instrument of Instructions in any one of the Dominion Constitutions, and that is a point we went into last year with you, that we want the Instrument of Instructions not to be merely a conventional document, but to provide a statutory basis.

*Marquess of Reading.*] May we just get this clear, Sir Tej? Although letters of instructions may possibly be referred to by a Court in Law in trying to construe what is intended, it does not affect the position. No rights are founded upon it by the subject, that is, no rights which can be dealt with by a Court of Law. I think we always have to bear in mind, if I may make this last observation, and apologise for having taken time—we also have to remember that hitherto Letters of Instructions have never been the subject of Acts of Parliament. They are introduced for this purpose because of certain difficulties, into which I do not enter with the Secretary of State, and, of course, there are certain matters relating to it which may be said never to have been considered by a Court of Law, but we do think we have to keep this quite clear, if I may respectfully suggest it to the Committee, and I think it follows from what the Secretary of State has said, that we have to be very careful that in this Committee we do not do anything which will interfere with the prerogative rights of the Sovereign. The Sovereign issues his Letters of Instructions to his Governor-General or his Governor, and, of course, on the advice of the Minister who is responsible to Parliament; that Minister, naturally, does not go beyond the rights which are in the Act of Parliament. I think that helps to keep the whole thing perfectly clear in our own minds.

*Viscount Burnham.*] May I ask Lord Reading this question, to clear my own mind? Would it be true to say that in future in Courts of Law the Acts of Parliament have to be read and treated in the light of the Instructions?

*Marquess of Reading.*] No, most certainly not. The Act of Parliament—I speak in the presence of the Lord Chancellor and other lawyers—would have to



be construed by the words of the Act of Parliament, including everything in the Act of Parliament, and, consequently, it may be that there may be reference to the provisions in the Act of Parliament which has definitely enacted that certain things must be in the Letter of Instructions, but, beyond that, no.

Lord *Eustace Percy*.] Might I, in order to clear my mind on this point ask Lord Reading : Do I understand Lord Reading thinks it would be impossible for a subject to impugn in the Courts an Order by which he had suffered (an Order issued by the Governor) on the ground that it was not issued on the advice of his Ministers ?

Marquess of *Reading*.] No ; I have never said that, or anything approaching it.

Lord *Eustace Percy*.] That would be entirely on the basis of the Letters of Instruction.

Marquess of *Reading*.] What I have been trying to point out is that, in my view, a subject would have no right of action on the Letters of Instruction.

Lord *Eustace Percy*.] Why not ?

Marquess of *Reading*.] Because it is the King's Prerogative to issue that Letter of Instructions ; it is not part of the Act of Parliament. It is a confusion between two things. For the first time an Act of Parliament is to prescribe certain things which must be included in the Letter of Instructions. That is a right, and, if they are not included in the Letter then, whatever rights there are of objecting, will be there ; but once the Letter of Instructions is issued the Letter of Instructions in itself cannot give a right to a subject to bring any action in a Court of law. He must turn to his statutory rights.

Lord *Eustace Percy*.] The Clause in the Statute saying that certain things including the action of the Governor on the advice of his Ministers, were to be included in the Letter of Instructions would give a basis to the subject.

Marquess of *Reading*.] On the Statute, but not on the Letter of Instructions. If no Letter of Instructions was issued that position would be exactly the same because the Governor remains liable ; he remains under the obligations to do the things, as the Secretary of State has

pointed out, by the Statute. The Letter of Instructions is the thing which is issued to him, and which tells him to carry them out. I remember when I went out as Governor-General a Letter of Instructions was given to me from the King. It was not an Act of Parliament, but what I was getting was a Letter of Instructions from the Sovereign whose position I was to take in India, subject, of course, to all the checks of Parliament, etc., telling me what it was that it was intended I should do, and drawing attention to certain specific things, but it goes no further. You could not, for example, as Governor-General, or Governor, say : " I will turn to my Letter of Instructions to see what I have to do." They may help the Governor and the Governor-General, and they do, but I suppose it would be no exaggeration to say that nine out of ten things would only come under the very general words of the Letter of Instructions, such as Lord Eustace Percy has just pointed out ; for example, that in certain cases he must follow the advice of Ministers save in instances which are given in the Statute, but the question put brings out quite clearly the point that was made, that is, that the rights of the subject and the rights to be construed by the Court are the rights which are prescribed within the Statute itself, and cannot travel outside. I think the Lord Chancellor will agree with that. It is not difficult at all to a lawyer.

Lord *Chancellor*.] I quite agree with what the Noble Marquess has said. If you translate it into very simple legal language there is an Act of Parliament which every subject is entitled to take advantage of. There are certain instructions to the Governor. He has to do A, B, C, D and E. Supposing he fails to do A, B, C, D and E, no subject can sue him in his private capacity, and no subject can rely upon his failure to do it in any suit that he has against any other subject.

Sir *Hari Singh Gour*.

6074. In a word, the Letters of Instruction create a moral as distinct from a legal obligation ?—No, I do not think so. The Act creates the rights. The Instructions interpret the way in which the Governor is to apply his duties towards those rights.

Sir *Austen Chamberlain*.] May I say that my layman's mind has not yet got quite clearly before it the actual condition of affairs as portrayed by Lord Reading and the Lord Chancellor, but perhaps we might come back to that in discussion and continue at this stage the examination of the witness for which very little time remains.

Sir *Phiroze Sethna*.

6075. As a result of the discussion that has just taken place, I hope, Mr. Secretary, you will consider it advisable to include in the Constitution Act as many points as possible, and leave very few to the Instrument of Instructions?—Is that in the form of a question?

6076. It is a suggestion?—Or is it merely in the form of a pious opinion?

6077. It is a suggestion?—If it is put to me as a question, and my silence is taken to imply assent, I think I had better make a reservation. I would point out to Sir *Phiroze Sethna* the danger of applying too rigidly the kind of line that he has just suggested. I myself regard the Instrument of Instructions as a very valuable vehicle for future development. They have this advantage over an Act of Parliament that they are somewhat more elastic and flexible, and, whilst I quite agree with him that all the important rights and issues should be in the Act of Parliament, I think he will find, upon further thought, that the Instrument of Instructions may provide a very useful vehicle for instructions in the future as to the interpretation of these constitutional rights.

6078. I will not pursue the point further, as we will take it up when we discuss the question later. Sir *Malcolm Hailey* rather suggested the appointment in the different Provinces of a Secretary to the Governor. May I know if he is to be in substitution for the Private Secretary and Military Secretary in the Presidencies and Private Secretary in the Provinces, or in substitution of these officers?—We purposely do not make any distinction. We believe it very well may vary from Province to Province, and all we do under the White Paper is to give the Governor power to have what staff is thought necessary for carrying out his duties.

6079. If the recommendation is carried out, Sir *Malcolm Hailey* suggested that the officer chosen would be drawn from the Indian Civil Service?—(Sir *Malcolm Hailey*.) Not necessarily.

6080. He may be even outside any of the Indian Services?—Yes.

6081. According to the White Paper a Governor may exercise his rights under the headings of special responsibility. Is he expected to take the opinion of the Governor-General in that connection, or is he to act on his own?—(Sir *Samuel Hoare*.) Sometimes it would happen in one way, sometimes in the other. I should not like to be rigid about it. I can imagine that in a case of great importance he certainly would consult the Governor-General. I can imagine in cases of lesser importance he would act upon his own initiative.

6082. If there is a difference of opinion between the Governor-General and the Governor what is to happen?—The Governor-General has the last word.

6083. In paragraph 70, sub-paragraph (i), it is proposed that the administration of the Sukkur Barrage be made a special responsibility?—What is in our mind in making that proposal is this: Very large sums of money have been spent upon the Sukkur Barrage. A large debt has been undertaken to get the Sukkur Barrage started, and the Sukkur Barrage, in our view, owing to its great importance, is of more than purely Provincial interest, both on account of its size and on account of the large sums of money that have been sunk in it. That being so, and, in view also of the fact that for some years to come Sind will be a deficiency Province, we felt that the Governor-General and the Federal Government have a somewhat exceptional interest in a great work of this kind.

6084. Under Proposal 74 you prescribe a time limit of 10 years, after which alone a Province with one Chamber can ask for a Second Chamber, or vice versa. Is it necessary to prescribe such a long time limit?—I am inclined to think that upon the whole it is better, when great Constitutional changes take place, not to have the roots dug up too quickly. That is the reason why, under our provisions, we do not contemplate, except in one

or two minor exceptions, alterations in the franchise, or alterations of this kind. We think, speaking generally, it is much better that there should be a period in which no changes of this kind do take place.

Sir *Phiroze Sethna*.] In Proposal 77 you provide for a member of the Council of Ministers in one House to have the right to speak in the other, but not to vote. As far as I see I think there is no similar reference in regard to the Central Legislature.

Mr. *Rangaswami Iyengar*.] There is.

Sir *Phiroze Sethna*.

6085. I stand corrected. As regards the appointment of an outside man as Minister, the White Paper gives the right to the Governor to make such an appointment, provided he can find a seat within a specified time. I think Sir Austen Chamberlain put to you a question to which you replied, and I think it follows from the White Paper that where there are two Chambers, and because the Governor has the right to nominate some in the Upper House, he could appoint such a person in the Upper House, and he would have the right to speak in the Lower House. May I suggest your following the present example where a Governor can appoint an expert during the passage of a Bill to be a member whilst the Bill is under consideration. Will you consider the possibility of a Governor appointing one or two men at the very most in a Province where there is no Upper House, so that he may act as a Minister, and that such appointment is to continue only so long as he is a Minister?—I am not quite clear about this proposal. What exactly would be the position of this Minister?

6086. He would be nominated?—Yes, I quite see he would be nominated. To whom would he be responsible?

6087. To the Legislature?—If he is responsible to the Legislature then he becomes for all ordinary purposes a Member of the Government.

6088. Yes, because he is going to be appointed a Minister?—But is not this a difficult plan to work—a plan in which you impose somebody upon a Govern-

ment, it may be for a few days or a few weeks; he goes into the Government and he comes out of it.

6089. It is a suggestion for you to consider. You invited the Delegates to make suggestions?—I quite agree. I would always consider suggestions. Offhand, I do not see how it would work.

Mr. *Rangaswami Iyengar*.

6090. Sir Samuel Hoare, I desire to pursue a little farther this question of the transfer of Law and Order and special responsibilities in respect of a grave menace to peace and tranquillity. I take it, Sir Samuel, that the whole of the White Paper accepts the principle and policy, which the Prime Minister laid down in 1930, that responsibility for the government of India in the Provinces and the Centre should be placed on Legislatures, Central and Provincial, so the primary purpose of the White Paper is the transfer of responsibility to Ministers under responsibility to the Legislature. I take it that that policy is the accepted policy of the White Paper?—Yes, certainly it is one of the bases of the White Paper. I would not say it is the only basis. It is one of them.

6091. I take it that the new defined category of special responsibilities is one of responsibilities, not to the Legislature, but to Parliament, to the Governor-General, or to the Secretary of State, as the case may be?—Yes.

6092. Therefore, to the extent to which you constitute special responsibilities, there is a deduction from responsibility to the Legislatures in India?—Yes; that has always been assumed from the very earliest discussions we have had, particularly the discussions upon which the Prime Minister's statement was based, namely, that the transfer of responsibility carried with it the necessity of also having safeguards.

6093. Quite?—And the safeguards are now set out in this field of special responsibilities and in other provisions of the White Paper.

6094. I am merely asking you to consider whether the provision of safeguards is the same thing as the provision of a deduction from responsibility. What I

am saying is that it is not a case of safeguards being provided, but it is a case of a deduction from the quantum of responsibility in your special responsibility. Is that so?—In my view, the two things are one and the same; it is the way we interpret the safeguards.

6095. I only wanted to make that clear for this purpose, namely, that in regard to safeguards as to Law and Order, the special responsibilities defined in paragraph 70 relating to the prevention of grave menace to the peace and tranquillity of any part of the Province, so far as that is concerned, you will agree that the conditions in which the Governor will exercise that power will be those in which he has failed to convince his Ministers about taking that action themselves; that they refuse to take the action which he has suggested to them?—I should think that might be the case.

6096. It is only in such a case that his intervention will come?—I would always hope that a crisis would not arise and that he would be able to persuade his Ministers to take the action that he thought was necessary.

6097. I quite agree. Even in such a case, in answer to the noble Lord, Lord Salisbury, you pointed out that it may be possible for the Governor to obtain other Ministers who would be prepared to shoulder the responsibility for the other measures which he thinks essential for the prevention of disturbances?—I think very often he would find it possible to obtain an alternative government.

6098. And therefore so long as he can pursue that method he would not pursue the method of acting on his special responsibility?—So long as he can get Ministers and the Legislature to avoid any question of the infringement of his special responsibilities, obviously he will not intervene.

6099. Therefore, I take it, Sir Samuel, that where the Governor fails to secure an alternative Ministry, he can also proceed by way of dissolution to find out if he can get an alternative Ministry?—Yes, he might take that course.

6100. Therefore, all these alternatives are present to him, and only in the event of his being unable to pursue those alternatives would he think it necessary to act on his own special responsibility?

—You cannot say offhand exactly what will happen, I could not possibly say either Yes or No to a question of that kind. It must really depend on the situation.

6101. What I am really putting to you, Sir Samuel Hoare, is this: Where it is a question of grave menace to peace and tranquillity and the Governor is unable to obtain a responsible Minister to shoulder responsibility, either by an alternative Ministry or even by a dissolution, is it not a case virtually of a deadlock or a breakdown in the Constitution?

6102. I should not like to give a general answer to that question, either. Speaking generally, I want to see the Governor working as closely as possible with his Ministry. If his Ministry will not work with him, or a particular Minister will not take action in order to avoid a special responsibility being infringed, then, under the White Paper, we leave the Governor very free to take what action he thinks fit. The longer he can work with his Ministry, the longer he can work with the Legislature, the better for everybody concerned.

6103. I am putting it to you because you have, amongst the special responsibilities, put down the responsibility that in the event of a breakdown of the Constitution (that is, in the event of a breakdown of the Constitution, to use the words of the First Round Table Conference, on account of the difficulties which the Legislatures or the Executives make in preserving the Constitution and working along constitutional lines) the Governor or the Governor-General, as the case may be, will immediately suspend the Constitution and assume the responsibility for the Administration. What I am saying is that, when you have got that provision, and in all cases where a Ministry fails to grapple with cases of grave menace to peace and tranquillity, would not it be a case of breakdown, and is it not therefore unnecessary to have a clause to give him special responsibility to prevent grave menace to peace and tranquillity?—No, I would not at all agree with that point of view. I think there are many intermediate stages before a breakdown comes about, and I think it may well be that by one or other of those means: finding an alternative

Minister, finding an alternative Ministry, possibly by having a dissolution, the Governor may reach a situation in which the breakdown clause will not come into operation.

6104. Quite ?—I regard the breakdown clause as the final and ultimate sanction, and I think there ought to be many of these other stages before the breakdown actually takes place.

6105. I agree. Therefore, I take it, Sir Samuel, that you will begin by persuading the Ministry, and if you are unable to find an alternative Ministry, and to have a dissolution, and if there is a breakdown, the breakdown clause operates. What is the necessity for this clause for providing for dealing with a grave menace to peace and tranquillity by the exercise of special responsibility ?—It seems to me quite essential.

6106. In what way ? If this is the process by which the Governor has to pro-

ceed by persuading the Ministry, finding an alternative Ministry and having, a dissolution, and if all these things fail to take place and a breakdown occurs, where does the grave menace to peace and tranquillity arise ?—There may be an emergency of a much more sudden character which would not permit of all these stages, and in any case I feel clear in my own mind that you must leave the Governor's hands free, and the more you try to tie him up with definitions, so much the worse it will be for everybody. I feel myself that the line of wise development is to give the Governor General powers of the kind we put in the White Paper and to leave it to his commonsense and to the commonsense of his Ministers and the Legislature as to how those powers are applied.

*Chairman.*] We shall resume the examination of the Secretary of State and his Officers at 10-30 to-morrow.

*(The Witnesses are directed to withdraw.)*

14th July 1933.

Present :

The MARQUESS OF LINLITHGOW in the Chair.

Lord Archbishop of Canterbury.  
Lord Chancellor.  
Marquess of Salisbury.  
Marquess of Zetland.  
Marquess of Reading.  
Earl of Derby.  
Earl Peel.  
Viscount Burnham.  
Lord Ker (Marquess of Lothian).  
Lord Hardinge of Penshurst.  
Lord Irwin.  
Lord Snell.  
Lord Rankeillour.  
Lord Hutchison of Montrose.

Major Attlee.  
Mr. Butler.  
Major Cadogan.  
Sir Austen Chamberlain.  
Mr. Cocks.  
Sir Reginald Craddock.  
Mr. Davidson.  
Mr. Isaac Foot.  
Sir Samuel Hoare.  
Mr. Morgan Jones.  
Sir Joseph Nall.  
Lord Eustace Percy.  
Miss Pickford.  
Sir John Wardlaw-Milne.

The following Indian Delegates were also present :—

INDIAN STATES REPRESENTATIVES.

Rao Bahadur Sir Krishnama Chari.  
Nawab Sir Liaquat Hayat-Khan.  
Sir Akbar Hydari.  
Sir Mirza M. Ismail.

Sir Manubhai N. Mehta.  
Sir P. Pattani.  
Mr. Y. Thombare.

## BRITISH INDIAN REPRESENTATIVES.

His Highness The Aga Khan.  
 Sir C. P. Ramaswami Aiyar.  
 Dr. B. R. Ambedkar.  
 Sir Hubert Carr.  
 Mr. A. H. Ghuznavi.  
 Lieut.-Colonel Sir H. Gidney.  
 Sir Hari Singh Gour.  
 Mr. Rangaswami Iyenger.  
 Mr. M. R. Jayakar.  
 Mr. N. M. Joshi.

Begum Shah Nawaz.  
 Sir A. P. Patro.  
 Sir Abdur Rahim.  
 Sir Tej Bahadur Sapru.  
 Sir Phiroze Sethna.  
 Dr. Shafa'at Ahmad Khan.  
 Sardar Buta Singh.  
 Sir N. N. Sircar.  
 Sir Purshotamdas Thakurdas.  
 Mr. Zafrulla Khan.

The Right Hon. Sir SAMUEL HOARE, Bt., G.B.E., C.M.G., M.P., Sir MALCOLM HAILEY, G.C.S.I., G.C.I.E., and Sir FINDLATER STEWART, K.C.B., K.C.I.E., C.S.I., are again called in and further examined as follows :—

Mr. Rangaswami Iyenger.

6375. Sir Samuel, you told us yesterday that despite the methods of adjusting the relation between the Ministers and the Governor in respect of special responsibilities which are involved in persuasion, or in the formation of new Ministries, or dissolution and a resumption on breakdowns, you still wanted a power to override and act in case of grave menace on the Minister's refusal to act. You thought that provision was an additional provision which was also necessary. What I am asking you is that if apart from persuasion you reach a stage in which you override the Ministers, would not you, on the one hand precipitate what I may call a breakdown, or, on the other, weaken responsibility? On the one hand by insisting on carrying out your special responsibilities without seeking the constitutional methods that I spoke of, you would, in fact, be compelling Ministers who failed to realise their responsibilities in the face of a grave menace to insist upon their resignation, or, on the other, to feel that in all cases of grave menace to peace and order it is not their job? The responsibility is that of the Governor in all cases, and in that sense would you not weaken the responsibility of Ministers?—(Sir Samuel Hoare.) No, I do not agree with that point of view. I thought I had made that clear yesterday. I want to avoid the breakdown. I want these preliminary steps to be possible to avoid what is, after all, a very serious calamity namely, the breakdown of a Constitution

6376. If then without a breakdown the Governor constantly interferes whenever a grave menace happens, would not that lead to the practice of Ministers thinking that in cases of grave menace it is the Governor's responsibility?—No, I do not think so. I think it is an essential feature of a scheme of responsibility with safeguards.

6377. Then I want to go, in regard to this multiplicity of safeguards, to two matters both in regard to legislation and finance. Let us take clauses 88 and 89 of the White Paper. They lay down what I would call the negative power of interference of the Governor in the case of legislation which he considers objectionable, or in which he thinks the Legislature, or the Ministry, may have to reconsider their position, and, I take it, you expect in the normal course of Constitutional development this reserved power of the Governor will develop upon the same lines as in the Dominions. I take it that is so. Clauses 88 and 89 provide for the powers of reservation and a return of Bills, and the veto of Bills passed by the Legislature?—Yes, I think certainly the development will follow the line of development in other parts of the British Empire, but the special conditions in India must always be kept in mind.

6378. I take it that, apart from this negative power over legislation which you want to vest in the Governor you want to vest in him the affirmative power for legislation in respect of special responsibilities under Clause 93?—Yes.

6379. What I am saying is that as far as this affirmative power is concerned which follows the present procedure, when the Governor has that power you still want, under Clauses 103 and 104 another power of making ordinances in emergencies?—Yes.

6380. I am asking you whether the affirmative power of making ordinances is only to be exercised in emergencies and when the Legislature fails, and that therefore when that power is in his possession as it is to-day, whether the power of ordinance-making should be added in addition for the same emergencies and for the same special responsibilities?—Yes, I think certainly he must have the power of carrying into effect the duties that have been imposed on him. He must, therefore, have in his power the means of issuing some Executive Order of a wider description than an individual order to a particular official to ensure that his duties are carried out.

6381. That is true, but the power of making ordinances under Clauses 103 and 104 is the power of legislating?—Yes, and I can conceive of cases in which something more permanent than a temporary Order would be essential.

6382. But would it not be possible to use the power under Clause 93 for exactly the same purpose?—I think Mr. Iyenger is thinking of two issues: One issue is contemplated under Clause 103 in which the Governor would act on his own discretion in order to carry out his special responsibilities. The other case is quite a different kind of case contemplated in Clause 104, namely, the case in which the Legislature is not sitting, and in which almost every Government, as far as I know, in every part of the world has found it necessary to have some means of issuing Executive Orders of an emergency character.

6383. That is so. What I am saying is that under Clause 103 the Governor has not at the request of Ministers, but independently in respect of his special responsibilities, the power of issuing ordinances. Under Clause 93 he has the power in emergencies of putting a projected Bill before the Legislature, and, if it refuses, to enact it himself. That is Clause 92; I am sorry?—But the two contingencies contemplated are different. Clause 92 is not dealing with emergen-

cies at all. It is dealing with the general field of responsibilities.

6384. The special responsibility, so far as grave menace is concerned, for instance, is a matter only of emergencies?—Yes, but I think Mr. Iyenger's question was a much wider one than that. It was dealing with the special responsibilities altogether.

6385. That is true. What I am asking, Sir Samuel, is whether you will not consider taking, for instance, Clauses 92 and 93 and 103 and 104 together—whether you are not providing for what I may call a multiplicity of safeguards all of which are, except one or two absolutely superfluous, and whether this multiplication of safeguards will not really sap responsibility?—No, I do not think so at all. It is no good giving the Governor nine safeguards if the tenth is the only one he wants. It means that if you are going to have safeguards, the safeguards really must give him full and effective powers, and they must, therefore, cover the whole field of contingencies in which he might have to intervene.

6386. That is quite true. Take, for instance, Clause 104. There Ministers can apply for a temporary ordinance in emergencies, and put them before the Legislature for approval when the Legislature is in Session. Similarly, the Governor General can make a temporary ordinance if the Legislature is not in Session, and then, when the Legislature is in Session, bring that ordinance before the Legislature for confirmation, and, if it refuses, certify and carry on like that?—The Governor might adopt either of those two courses. Under our proposals he might issue an ordinance, and not bring it before the Legislature. If, on the other hand, he thought there was likely to be substantial support for it in the Legislature, he might wish to give it Legislative sanction, and give the Legislature the opportunity of embodying it in the Statute law.

6387. Would not it be right to make it obligatory on him to bring it before the Legislature. Why do you want to give him the power to enact these laws to have, if I may say so, effect for a whole year?—We are contemplating there may be cases in which the Governor has got to act quickly. In that case it might be

impossible for him to take an ordinance for discussion to the Legislature.

*Sir Austen Chamberlain.*] May I ask a question to get this clear in my own mind ?

*Mr. Rangaswami Iyenger.*] Yes.

*Sir Austen Chamberlain.*] Am I right in thinking that Clauses 93 and 94 deal with a case where a Governor finds it necessary to act upon his own responsibility, but that Clause 104 contemplates his acting by request of his Ministers when there is an emergency ?

*Mr. Rangaswami Iyenger.*

6388. That is Clause 104. I am referring to Clause 103 also ?—*Sir Austen* is quite right about Clause 104. With Clause 103 the Governor is entitled to act at his own discretion in the field of his own special responsibilities.

*Sir Austen Chamberlain.*] I beg your pardon. I thought the reference was to Clause 104.

*Mr. Rangaswami Iyenger.*] What I wanted to ask was that in the field of special responsibilities the Governor has, in the first place, the power of securing effective legislation on his own sole authority when the Legislature refuses, in emergencies, and in ordinary cases, under Clause 103 he may also enact measures without even giving the opportunity to the Legislature to discuss it. I am asking whether it is not a superfluity of safeguards.

*Sir Tej Bahadur Sapru.*] May I suggest whether it is not the case that Clauses 92 and 93 deal with cases which will have necessarily to go before the Legislature ? I am not expressing any opinion. I am only suggesting to *Sir Samuel Hoare* whether the true explanation is that Clauses 92 and 93 deal with cases of legislation which must necessarily involve going before the Legislature, whereas Clause 103 deals with cases of emergency where the Governor has got to take action promptly without reference to the Legislature.

*Sir Hari Singh Gour.*

6389. What about Clause 104 ?—I do not think it goes quite as far as that, but our intention is definitely to meet the two contingencies : first, the contingency in which the Governor has to act

at once ; secondly, the contingency in which he thinks there is time, and, if he so desires, to consult the Legislature and to obtain Legislative support for his action from the Council.

*Sir Tej Bahadur Sapru.*

6390. That is exactly what I said ?—Perhaps I did not follow your question.

6391. That is exactly what I said ?—Anyhow that is our position.

*Marquess of Salisbury.*

6392. Would it only be the issue of time which determines him ?—No.

6393. It will only be a question of whether he has got more time or less time ?—No ; he will have to take other things into consideration. Certainly I would not restrict it in any way to time. The Governor must have full discretion as to which line he adopts.

*Mr. Rangaswami Iyenger.*] I will leave it at that.

*Dr. B. R. Ambedkar.*

6394. I have not followed it. I think even under Proposals 92 and 93, although the Legislature may be in Session, the Governor will not be bound to put his legislation before the Legislature if he so thinks ?—That is perfectly true. The Governor has full discretion.

6395. The Governor has full discretion ?—Whether for ordinances or for legislation, on his own initiative.

*Mr. Rangaswami Iyenger.*

6396. May I suggest to you that you may re-examine these clauses and put in only the minimum of safeguards that are compatible with your requirements ?—We feel that is very much what we have done.

6397. I am sorry I must differ. Then I shall only refer to one other point. Will you kindly take Clause 96 in regard to Finance ; I am referring only to the constitutional aspect of it, not the financial part of it. The clause says that "the statement of proposals for appropriation will be so arranged as (a) to distinguish between those proposals which will, and those which will not, be submitted to the Vote of the Legislature, and amongst the latter to distinguish



those which are in the nature of standing charges" and the rest. "(b) to specify separately those additional proposals (if any), whether under the votable or non-votable Heads, which the Governor regards as necessary for the fulfilment of any of his 'special responsibilities.'" If the matters under special responsibilities are non-votable, why should we put in this clause about specific proposals, whether under votable or non-votable Heads? Is that a necessary clause? If it is, I want to ask you whether it is not now the case that proposals under non-votable Heads or under votable Heads will, under no circumstances, come under any of the special responsibilities which the Governors now possess, and they will not be able either to reserve them or to restore them if they are rejected by the Legislature?—I do not quite follow the question. Could Mr. Iyenger put it a little more concretely?

6398. Yes. The present state of things is that in the Provincial Legislature expenditure is to be under two heads, votable and non-votable. In regard to non-votable Heads the Council has no discretion. In regard to votable Heads the Governor can restore them if the Legislature rejects them, if he considers it essential to the discharge of his responsibilities. Under this clause I take it that expenditure which is votable, but which would come under special responsibility, will automatically become non-votable?—I think Mr. Iyenger really mistakes our conception of the field of special responsibilities. We do not conceive of the field of special responsibilities as a field covered by separate departments with separate votes. The special responsibilities are rather duties imposed upon the Governor that cover the whole field of government.

6399. That is true?—It is, therefore, practically impossible to distinguish in a budget between the two fields. What we wish to do is to enable the Governor to see that there is enough money voted to ensure such duties as are imposed upon him, such as the salaries of the services, the service of debt and so on; but there is no dyarchy in the provincial field.

6400. No?—It is that which distinguishes the position in the future from

the position that Mr. Iyenger has just described, namely, the position of to-day.

6401. That is true, but the salaries of services and various other things which are special responsibilities are made by Statute non-votable. What are the other things relating to his special responsibilities which would be votable and which would still, by reason of his special responsibilities, become non-votable? That is a category that I am not able to detect?—Supposing an emergency arose and the Governor, in the exercise of his duties, had to engage extra Police or had to involve himself in additional expenditure to meet the situation, that would be a case in point.

6402. I know; but it can be put before the House, and if it refuses it can be restored. That can be put before the Legislature and if the Legislature refuses it, it can be restored?—Yes; that is certainly so. At the same time, I wish again at present to remind you that the answer I gave just now covers this question as well, namely, that we must contemplate a situation in which the Governor may have, in the interests of everybody concerned—the interests of the Province, of course, in particular—to act very quickly.

*Sir Tej Bahadur Sapru.*

6403. May I put a question to clear up this point?—Yes.

*Sir Tej Bahadur Sapru.*] You contemplate that special responsibilities may include an item which under the present Constitution is votable.

*Mr. Rangaswami Iyenger.*] That is the point.

*Marquess of Reading.*] Will you repeat the question?

*Sir Tej Bahadur Sapru.*

6404. I was asking Sir Samuel whether the White Paper contemplates that special responsibilities of the Governor may include an item which under the present Constitution is votable?—No, that is not so. We do not include any item at all. What we do is: We give the Governor general powers to get enough money to carry out his special responsibility.

Mr. M. R. Jayaker.

6405. With respect to all items which under the present Constitution are votable by the Legislature, may I ask Sir Samuel whether the special responsibility will include an item in the budget which under the present Constitution is a votable item?—No, the field of special responsibilities is a field that pervades the general field of administration. There will, it is true, be certain items that will be non-votable, such as the salaries of officials; but supposing the Governor found that not enough money had been set aside for a votable head and there was not enough money for him to meet an emergency, then he would have the power of making an addition to the budget for the purpose of providing the money for those purposes. It would be votable in that case.

Sir Hari Singh Gour.

6406. Would it be subjected to a Supplementary Vote?—I could not possibly go into details of Parliamentary procedure as to how it should be done in a particular Council. I am going to ask Sir Malcolm, if I may, to put what I have said in perhaps more concrete terms, from his own administrative experience.

Mr. Rangaswami Iyenger.

6407. May I then put one question?—I would like Sir Malcolm to explain. (Sir Malcolm Hailey.) Section 96 of the White Paper is only a description of the arrangement of a budget; it does not, in itself, lay down anything as to what should be votable or what should be non-votable. It only says how a budget is to be arranged, and nothing more. If a Governor desires, in the exercise of his special responsibilities, to see extra expenditure incurred, whether under the votable or the non-votable Heads, that is to say, for example, if he desires to see additional expenditure on a non-votable Head such as pay of the services, or additional expenditure on a votable Head such as the Police Force, then he will have those put in the budget and shown separately under the provisions of sub-section (b) of Proposal 96. That does not alter the fact that they are

votable or non-votable, but if the appropriations he has asked for are not voted by the Legislature, then, under the provisions of Proposal 99, he can secure that they stand as appropriations, which is equivalent to our present procedure of certification. That is the explanation of that.

6408. I follow that. May I ask Sir Samuel and Sir Malcolm to follow the second paragraph of Clause 99. "At the conclusion of the budget proceedings the Governor will authenticate by his signature all appropriations"—that is the first clause. In the second paragraph it says: "In the appropriations so authenticated the Governor will be empowered to include any additional amounts which he regards as necessary for the discharge of any of his special responsibilities"—there is a separate provision for the class of case which has been so clearly described by Sir Samuel and by Sir Malcolm—"so, however, that the total amount authenticated under any head is not in excess of the amount originally laid before the Legislature under that head in the statement of proposals for appropriation." I want to know what these additional amounts are, if they are not the amounts which Sir Malcolm has just described to us?—These amounts cannot exceed the original amount for which he has asked in the Budget. There may be a variation in the amounts, but the total cannot exceed the amount put down originally in the Budget; that is to say, he cannot when the Budget is concluded put in additional amounts for his own purposes.

Mr. Rangaswami Iyenger.] But what is the need for altering the Budget after it is passed by the Legislature?

Sir A. P. Patro.

6409. Suppose an item has been cut down by the Legislature, and a surplus grant has been asked for, 100,000 rupees, then he can only restore to the extent he originally asked for in the Budget and no more?—That is so.

Mr. Rangaswami Iyenger.

6410. In other words, if he has put down certain amounts for the exercise of his special responsibilities, they, by that very fact, become non-votable and the Council cannot touch them?—(Sir

*Samuel Hoare.*) No, that is not so at all. (*Sir Malcolm Hailey.*) They become votable, but if the Council touches them, he can restore them.

*Sir Joseph Nall.*] May I suggest that the procedure is very clearly indicated in paragraph 39 of the Introduction ?

*Mr. M. R. Jayaker.*

6411. I take it, *Sir Samuel*, that you are aware that the Governor's Instrument of Instructions has been used in many Dominion Constitutions for the purpose of securing Constitutional advance within certain limits by varying them from time to time ?—(*Sir Samuel Hoare.*) Yes, that is so.

6412. Can I take it that it is the intention of His Majesty's Government to leave for similar purposes enough scope and latitude in the Constitution Act ?—Provided always that the Instructions have the sanction behind them of the two Houses of Parliament.

6413. I mean, subject to Proposal 64 ?—Yes.

6414. I am speaking, subject to Proposal 64 ?—Yes, that is the case.

*Sir Tej Bahadur Sapru.*] *Sir Samuel*, I propose to ask you just a few general questions, and then to refer to you certain sections which I want to clear up. You have been explaining to us during the last three days the Constitution for the Provinces : Am I right in assuming that you look upon that Constitution as a part of an integral whole including the Constitution of the Centre ?

6415. Yes ; I have always said so, and I maintain that position.

6416. This Part of the White Paper, the Part of the White Paper which deals with the Provinces, has a direct relation to the Centre ?—Yes. The two have been worked out certainly as parts of a comprehensive whole.

6417. I want to be still more clear about it, because that is a matter of very great importance from our point of view. Supposing Part I of the White Paper which deals with the Centre were to be taken out altogether or dropped ? I can imagine Part II, which deals with the Provinces, requiring very material alteration under those circumstances ?—I would not like to say how much alteration it would or would not involve until

I had looked very carefully into it. It would certainly be true to say that some alteration would be necessary.

6418. Now, coming to the question of the nominated Minister, which was put to you by *Sir Austen Chamberlain* the other day, have you satisfied yourself as to whether Indian opinion here or Indian opinion in India will favour the inclusion of such a nominated Minister ?—No ; I have not had an opportunity of consulting either the Delegates here or opinion in India upon the proposal. It was something in the nature of a new proposal. Hitherto, I think, we had contemplated that a nomination of that kind would, or would not, be made at the discretion of the Governor. I do not think we had contemplated the contingency of a nomination being made upon the advice of his Ministers, and I should welcome any opinion that Delegates here would give me on the subject.

*Sir Tej Bahadur Sapru.*] I do not want to interrupt the cross-examination, but I may say that I am definitely opposed to it, as I think it will destroy the growth of Party system in India, quite apart from other reasons.

*Sir Austen Chamberlain.*] I hope we may have an opportunity of discussing that.

*Sir Tej Bahadur Sapru.*] Yes.

*Sir Austen Chamberlain.*] I will not interrupt now.

*Sir Tej Bahadur Sapru.*

6419. Now with regard to Second Chambers. Putting it at the lowest, is it or is it not correct that so far as Indian opinion is concerned, it is not overwhelmingly in favour of Second Chambers in the Provinces ?—I should think that would be the case ; but I think it would be equally true to say that opinion was not overwhelmingly against the proposal.

6420. Take, for instance, the three Provinces in respect of which the recommendation is that there should be Second Chambers, and if you look to the numbers which are provided for the Second Chambers for each one of those Provinces, are you satisfied that you could get an adequate number of men of the type who ordinarily go into the

Second Chamber and exercise the function of a revising body—the United Provinces, Bihar and Bengal?—I think certainly with Bengal. What does Sir Malcolm say about the United Provinces?

6421. Sixty in the United Provinces, and, I believe, the number of men in Bengal is 65?—(Sir *Malcolm Hailey*.) I think I should rather regret it, if I had to say that a Province of 49,000,000 people with five Universities in it and a long record of political work could not provide 60 fitting representatives for an Upper Chamber.

6422. I am not referring to the Universities. I am talking of the Zamindars from whom you will recruit. Can you say, from your experience of the United Provinces that you can have 60 men belonging to that body who can effectively perform the function of a revising body?—I will not admit in the first place that it is entirely Zamindars from whom we should recruit. The proposals for the Constitution of the Second Chamber have not been definitely laid down in the White Paper, but such proposals as there are, give you not only a high franchise but a suggestion that you should take representatives from men of experience and position in various classes of society, and I contemplate that the result of those proposals will be that you will take not only Zamindars but men of position in the commercial world, and men who have been officials, who have served in the judiciary or have secured positions in the local bodies. It ought not to be difficult to find 60 fitting men from among those classes.

6423. Then coming to some sections, will you kindly turn to Proposal 65, where you say: "The Governor's salary will be fixed by the Constitution Act, and all other payments in respect of his personal allowances, or the salaries and allowances of his personal and secretarial staff, will be fixed by Order-in-Council". You know that there is a great difference in the salaries of Governors in various Provinces. Is it intended to maintain the present scale everywhere, or to revise the scale of salaries?—(Sir *Samuel Hoare*.) I think we should greatly prefer to keep our hands free and to consider the situation at the time, no doubt Province by Province.

6424. For instance, the Governor of Assam gets the lowest salary; then the Governor of the Central Provinces gets a slightly higher salary; then the Governor of the Presidencies and the Governor of the United Provinces get one scale of salary; the Governor of Bihar and of the Punjab get a smaller salary. What is your anticipation?—To be quite frank, I have not got one at the moment.

6425. But I hope you will go into this question?—Certainly we shall have to at some time.

6426. I will not trouble you with No. 67, because Mr. Jayakar has already put to you that question. Coming to Section 70, which deals with the safeguards: Am I right in assuming that your scheme is this, that the entire sphere of the administration is to be divided into two parts, one being within the control of the Minister and the other being within the control of the Governor, and it was only when any one of those contingencies arises, which are mentioned here, that the Governor will be required to exercise these functions?—No, there are not two distinct fields. You cannot say, if you look at the list of the special responsibilities, in No. 70, that they cover separate Departments of Government; they are duties extending over many fields of Government, but the Governor can only intervene in the case in which those duties are endangered.

6427. Take, for instance, Land Revenue, Forests or Excise: There are no safeguards provided there. The Governor could under no circumstances intervene in regard to those matters; he could intervene only in regard to peace and tranquillity of the Province?—I can conceive—it may be very unlikely, but there might be a great emergency arising over some very dangerous action taken, say, with Land Revenue, and in that case, if there was a grave menace to the stability of the Province then the Governor could intervene; but there is no question whatever of his intervening in the normal administration of Departments of that kind.

6428. He can only intervene in regard to Land Revenue, Forests and Excise, if the action of the Legislature or the

Minister endangered any one of the responsibilities?—Yes, certainly.

6429. But not otherwise?—Not otherwise.

*Mr. M. R. Jayaker.*

6430. I just want to ask one question. Is it the conception of Proposal 70 that the special responsibility of the Governor covers the whole field of administration, if the contingencies mentioned in that clause arise?—Only if the contingencies mentioned in the clause arise.

6431. But they cover the whole field of administration?—I think that is inherent in any scheme of safeguards.

*Sir Tej Bahadur Sapru.*

6432. Take, for instance, the Constitution of the Revenue Courts, their powers and functions in the United Provinces, and things of that kind, would it be open to the local Legislature to modify or alter them?—Yes.

6433. Supposing the Legislature passed any law regulating the relations of the landlords and the tenants, would the Governor step in on the ground that he apprehended very serious danger?—It would have to come within one or other of these fields of special responsibility. He could not go outside the list set out here.

*Lord Eustace Percy.*

6434. May I, just to clear up that point, ask a supplementary question? It is not, is it, intended that the Governor's power of veto should be limited by his special responsibility?—No; there is no provision to that effect. I wonder whether it would make the position clearer to the Committee—I made some notes last night upon the general position of the Governor and his special responsibilities—if I read these notes out. They are quite short, my Lord Chairman.

*Chairman.*

6435. If you please?—I should like to say that the impression left upon my mind by some of the questions put to me yesterday and the day before is that they were prompted by a conception of the purpose and effect of the proposals relating to the Governor's special responsibilities which differs a good deal from my own. Some of the

questions put to me seem to suggest that the questioner views the Governor of the White Paper scheme as having little or no contact with his Ministry in the affairs of his Government until he discovers that their proposals or their actions have compromised, or are about to compromise, his ability to discharge the responsibilities imposed upon him personally by the Constitution Act; whereupon the Governor suddenly intervenes in the affairs of some Department, overrules the Minister (or, perhaps, the collective Ministry, if they agree with their colleagues), is faced by resignations or, perhaps, himself resorts to dismissals, and proceeds by a regular process, from overruling, through dismissal or resignation and dissolution, to the ultimate debacle of a breakdown of the Constitution and the assumption of all powers into his own hands. In fact, if I understood Mr. Lyngger correctly yesterday, he actually suggested that there was really no need for the limitation of the responsibility of Ministers in the shape of the Governor's special responsibilities, since the failure of Ministers to deal adequately with, for example, a grave menace to peace, would inevitably constitute a breakdown of the Constitution, the Governor would always be able in the last resort to conduct matters in his own way through the "breakdown provision." This is not at all my conception of the purpose and effect of the White Paper scheme, and I venture to urge upon the Committee and Delegates a close study of paragraphs 23 to 44 of the Introduction, and particularly of paragraphs 26 and 42. The point I wish to emphasise is that the "special responsibilities" enumerated in paragraph 70 of the White Paper are not special subjects (this is the important point) which are kept out from the purview of Ministers, and reserved for the control of the Governor. I should describe them rather as signposts or labels indicating to the Governor, and incidentally to his Ministers, certain purposes the fulfilment of which the Governor is directed to secure, if necessary, by refusing to be guided by his Ministers' advice whenever he considers that the advice tendered to him would be inimical to the fulfilment of any of these purposes; and, if necessary, again, by calling to

his aid his "special powers" properly so-called in relation to legislation and finance. We are all agreed that the responsible Government which is to result from these discussions is to be accompanied by safeguards. One obvious means of providing a comprehensive safeguard would be to say that the Governor is to be free to make his own judgment as to the requirements of "good government", the test in all matters as to whether he will or will not be guided by his Ministers' advice, and, of course, to arm the Governor with the necessary powers to make his judgment effective. But, although such a plan might result in fact in responsible government it would hardly bear the stamp of responsible government, on the face of it. The difficulty arises when you try to limit your safeguarding provisions with the object (to the extent to which you do limit and define) of leaving the rest of the field free for the exercise of Ministerial responsibility. The device of limitation by division of subjects or Departments is dead under our scheme for the Provinces. The plan of the White Paper is to limit by carefully defined *purposes* : and the basic assumptions which I make for the working of this plan are, firstly, that there will be no necessary conflict between a Governor and his Ministers and Legislature as to the desirability of securing the purposes we have specified, and, secondly, that the Governor who is and must be in form the Executive (that is, the Crown's deputy, for the purpose of administering the Government) will work throughout in the closest touch with the Ministers whom he appoints in order that he may pass on to them the responsibility for the Government to the fullest extent which is compatible with the fulfilment of his own defined responsibilities to the Crown and Parliament ; and thirdly, when occasion does arise for implementing his own responsibilities, the Governor's powers for this purpose must be clear and effective and unquestionable and that he must be free to use them in the way that seems to him best suited to the particular situation with which he is called upon to deal.

6436. Thank you. Before I pass on to another Clause of the White Paper I should like to clear up one or two more points under Clause 70. Take, for in-

stance, a case like this : The United Provinces Legislative Council or Assembly proposes to pass legislation conferring upon the tenants at will, or non-occupancy tenants, full occupancy rights. Would it be open to the Governor under one of these Clauses to interfere ?—(Sir *Malcolm Hailey*.) It would not be open to him to interfere on the administrative side under Clause 70 unless any action contemplated by Ministers in that regard was likely to give rise to any grave menace to peace, or it might be to impinge on the legitimate interests of minorities, though, personally, I think it would be somewhat difficult to bring either of the two classes, who would be brought into conflict by such legislation, under that clause. His power of refusing assent would not be affected by anything in Clause 70, that is to say, it would not by Clause 70 itself be confined to maintaining his special responsibilities. In the terms of the Constitution at all events his power of refusing assent is not fettered by any prescription that he can only exercise it in pursuance of his special responsibilities.

6437. Sir *Malcolm*, would you consider this case ? I am not talking of any administrative action on the part of the Government, but of Legislative action. Supposing the United Provinces Legislative Council passed an Act conferring upon the tenants full occupancy rights, and the Zamindars in your Province objected to that, would the Governor in a case like that be justified in interfering merely because the Zamindars are opposed to the extension of the rights of the tenants ?—You mean, would he be justified in refusing his assent to legislation ?

6438. That is different. Interfering under any one of these Clause 70 sub-clauses, could the Governor then say : "Government is going to lose the support of the Zamindars. It is going to create dissatisfaction among them which may ultimately lead to the disturbance of peace and tranquillity on the part of the Zamindars, therefore I am justified in interfering there" ?—I think that must remain for the judgment and conscience of the Governor of the time how far he judges of the circumstances that are likely to arise out of such proposals, and how far he is will-

ing to press his own interpretation of sub-clause (a) of Clause 70.

*Marquess of Salisbury.*

6439. I understand Clause 70 has no bearing whatever on the legislative power of the Governor. Constitutionally he is quite free to withhold his consent to legislation without any reference to Clause 70 whatever. Is not that so?—Constitutionally, that is so.

*Dr. B. R. Ambedkar.*

6440. I want to pursue this point a stage further. You said that would depend on the circumstances of the case. That was not the question of Sir Tej Sapru. The question is, is this Clause wide enough to give the power to interfere and say: "No, this will interfere with peace and tranquillity, and I will not allow you to introduce this legislation"?—The Clause is merely wide enough to allow the Governor to take action if he is convinced that it will lead to a grave menace to the peace and tranquillity of the Province, not merely that he thinks such legislation is undesirable in the interests of one class or another.

6441. If he comes to that conclusion this clause is wide enough for him to say: "I will not allow you to proceed with such legislation"?—I can only say we have had in the United Provinces within the last two years the menace of very grave trouble indeed arising out of the agrarian situation, and dealing with the rental question. There was a stage then when, in my opinion, this clause would undoubtedly have applied, but it would have applied because there was threatening of actual risings of tenants in certain parts of the Province. I would not have held that it would have applied if it had been merely the case that one class or other would have been prejudicially affected by the Legislature.

*Mr. M. R. Jayaker.*

6442. Supposing in the Provincial Legislature a Bill is introduced for the purpose of allowing the depressed classes people to enter certain public temples, and it causes commotion in the Orthodox Hindu community who threaten to create a disturbance, will it

enable the Governor of the Province to interfere on the ground that he is doing so for the prevention of a grave menace to the peace and tranquillity of the Province and stop the Bill?—Not unless the grave menace is in his mind a visible one and imminent.

6443. He will be the sole judge of that?—Yes.

*Marquess of Salisbury.*

6444. Did you say a "visible" one?—I may not have chosen the words very well, but I think a Governor would say to himself: "If it is only likely that at some very distant date some trouble may arise, or if I have only a vague fear that this may cause trouble", then I do not think that in his conscience he could say that that clause applied, but if he saw, as he very well might see, that as soon as this legislation was brought forward excitement was rising; people were actually resorting almost at the time to violence—if from that he drew the conclusion that as soon as any action was taken under such a Bill there would be violence and a grave menace to tranquillity, then under this clause he would have undoubtedly not only the right but the obligation of interfering.

6445. Whatever adjective you use there is no word like "visible" or "imminent" to be found in the clause in the White Paper?—No, and that is why I withdrew those words. I tried to amend them afterwards.

6446. I am not criticising your choice of adjectives. Please do not think that for a moment, but there is no adjective of any kind. It is quite clear "The prevention of any grave menace to the peace or tranquillity of the Province or any part thereof"?—Yes, and I was aware that those words were not very well chosen. I was trying to get into the attitude of mind of a Governor who was faced with a trouble of that kind.

6447. We are very much obliged to you, but what you really mean is that these words ought to be amended?—No, I do not.

*Lord Irwin.*

6448. What Sir Malcolm meant, I should have thought, was that the interpretation of these words in a good many

cases of administration would be a matter of discretion of the Governor. He was trying to interpret how the Governor's mind worked?—That is so: I was trying to get into the mind of the Governor when he was looking at the circumstances and the words of the Act.

*Marquess of Reading.*

6449. I understood Sir Malcolm to be drawing the distinction between a Governor considering for the purpose of exercising his powers under the special responsibility and the case where he thinks "in the immediate future as far as I can see there is grave menace" in which, according to him, he would be bound to act. But he may think that in a year or two's time, in consequence of development, and so on, or some considerable time ahead, there may be a grave menace in which case, I understood Sir Malcolm to say, putting those facts merely for the purpose of bringing out his point, he did not think in the latter case he would be justified in interfering at that moment. Is that right, Sir Malcolm?—Yes, that was generally my meaning.

*Marquess of Zetland.* It must always depend on the judgment of the Governor. He has complete power under this clause.

*Marquess of Reading.* Complete.

*Sir Austen Chamberlain.*

6450. Your view, Sir Malcolm, is that the Governor must use his discretion in the light of the particular circumstances when they arise?—Yes.

6451. And that it is impossible to lay down any precise rule beforehand?—Certainly.

*Lord Rankeillour.* On the face of this clause it refers to administration only. Does Sir Malcolm interpret the word "administration" as including the supervision of legislation before it is passed by the Assembly?

*Lord Eustace Percy.* Clause 94.

*Lord Rankeillour.* Is that covered by the word "administration"? It does not seem to imply anything to do with administration. We are talking of Clause 70. That is what I wanted to know.

*Lord Eustace Percy.* Clause 94.

*Lord Rankeillour.* Yes, I think that answers it.

*Marquess of Salisbury.*

6452. I understand Clause 94 would be one of the clauses which would be included. That would be one of the things which he might be guided by, according to Sir Malcolm's canons?—If we are to draw a distinction between administration and legislation, Clause 70 does apply in terms to administration. The clauses which apply to legislation are Clauses 88 and 89, in which the Governor's power of refusing assent is not fettered by any special condition laid down in the Constitution, and Clause 94 in which it is laid down that the Governor can intervene on the introduction of a Bill, or on any amendment of a Bill, but, in this respect, his power of intervention is limited to the discharge of his special responsibilities.

*Marquess of Salisbury.*

6453. But it is not suggested, is it, that in Clause 88 the Governor would be limited by the provisions of Clause 70?—No.

6454. You mentioned Clause 88 then?—Because, as the Secretary of State said yesterday, in answer to a question, that is a general power, and is not limited to the exercise of special responsibilities.

*Mr. Zafrulla Khan.*

6455. If Mr. Iyenger will permit me an intervention, may I put this to Sir Malcolm Hailey. That is the interpretation to be put upon this clause. Would Sir Malcolm Hailey consider this, that whatever measure was before the Cabinet, whether a measure of proposed legislation, or of administration, or any other measure of policy, and any section of the population of the Province was opposed to that measure, then all that they have to do to attract the intervention of the Governor would be to start an agitation, and to threaten violence, and, if they know that the Governor has a power of intervention in such cases, the surest way of starting an agitation would be to say that if you carry agitation to a certain point the Governor will interfere. Would it not be putting a premium on agitation



to give to the Governor power to intervene outside law and order under this Clause ?—I think, if I may say so, your interpretation puts a certain limitation on the good sense of the Governor. I think the Governor would be able to discriminate between a factious agitation used for the purpose of putting pressure on him, and a real agitation which might lead to a menace to peace and tranquillity.

6456. Unless an agitation is genuine in the sense that it continues from day to day, and goes on increasing in volume, the Governor will not intervene. Supposing it is with the object of putting pressure on the Governor, how is he to get out of this difficulty that the agitation goes on growing in volume every day, because he has not interfered. Would not the mere fact that he has power of intervention outside law and order, in order to prevent legislation, tell the people that one means of obtaining the redress and stopping this policy was to go on putting greater and greater pressure on the Governor, otherwise he would not exercise his discretion in their favour ?—I imagine that is a method by which you put pressure on Governments in any country, and Governments always have to decide whether they will yield to pressure or not. In this case you are not merely putting pressure on the Governor, but you would be putting pressure, as a matter of fact, not merely on the Governor, but on the Governor and his Ministers, and the Ministers would then have to decide on their policy with the Governor.

*Marquess of Lothian.*

6457. In the exercise of this responsibility will not the Governor have to consider just as much whether to interfere and overrule his Ministers will not lead to a greater menace to peace and tranquillity than to yield to a factious agitation outside ?—That is one of the many difficult circumstances which I think the Governor would have to decide on. I would have thought, speaking with general and not special knowledge, that in the kind of case suggested by Mr. Zafrulla Khan, the Ministers would really be fighting that kind of factious agitation. The Ministers presumably would not at all wish the Governor to intervene over their heads, and it would

be very much to the interests of the Ministers to suppress it. I would have thought the main brunt would have fallen upon the Ministers.

*Marquess of Reading.*] May I make a suggestion : That in the present day, and certainly for the last ten years, since the Reforms, not to go back further than that, the Governor-General has always had this responsibility upon him during the whole of that time and has had to exercise it. All this kind of question comes up to the Governor-General who has then to make up his mind as to whether or not it is a factious opposition. Really what he determines for himself is : Is it a great menace, in which case, he must intervene. Of course, there are differences. We are talking about responsible Ministers, but it does not alter the fact that the kind of responsibility which is here put upon the Governor is exactly the same kind of responsibility which has been upon the Governor-General both under the Act of 1919 and also in the direction in which he has always been expected to administer his Office, and has administered it. He has always been responsible to interfere if there was grave menace to peace and tranquillity.

*Chairman.*] I suggest to the Committee and the Delegates that if this matter requires further elucidation, it may probably be dealt with during the discussions which are to follow the evidence given by the Secretary of State.

*Sir Tej Bahadur Sapru.*

6458. Very well. I will pass on to other clauses. Will you kindly look at clauses (b) and (c) ? There you have the words : "legitimate interest of the minority and legitimate interest of the Services". Do you mean by the words "legitimate interest" anything more than those interests which have been guaranteed to them by the Constitution ?—In the case of the minorities, I think you must use a general term ; I do not see how you can very well specify it more definitely. In the case of the Services, we can come in greater detail to that later, but we do feel that there is something necessary over and above the written words in rules and contracts. The other case that we have in mind is the case of a hostile Government, that

without actually breaking any of the rules, yet makes it quite impossible, in one way or another, for the Services to carry out their duties.

6459. Now will you kindly turn to clauses 92 and 93. Clauses 92 and 93 provide a special procedure, which are to be known as Governor's Acts ?—Yes.

6460. I take it that under these two clauses, 92 and 93, when the Governor decides to have a Governor's Act passed, he must first go to the Legislative Assembly. I draw attention to the words that he "will be empowered at his discretion". I do not understand them to mean in the context that the Governor may dispense with the necessity of going to the Legislative Assembly and off-hand pass an Act of his own ; that is to say, if he desires to have an Act like that passed, then he must follow a certain procedure ?—The two kinds of Governor's action that we contemplated here was, one, by Ordinance to meet situations of a transitory character, and, two, more permanent Acts to meet a more permanent situation. In the case of the Ordinances, he would be entitled to act how he wishes ; in the case of a Governor's Act, I assume that he would go to the Council, in the first instance.

Sir Tej Bahadur Sapru.] That is how I interpret it.

Marquess of Reading.] He must.

Sir Tej Bahadur Sapru.

6461. Yes. Do you think that this provision is likely to interfere with the responsibility of the Ministers and with the loyalty of the Legislature to the Ministers or to their Party Leaders ?—It seems to me to be inherent in any system in which the Governor's powers are to be effective of the purposes, namely, that he should be able to carry them into effect by a temporary measure like an ordinance or by a more permanent measure like an Act.

6462. If you are giving the Governor the power to pass ordinances, why cannot you give the Governor the power to pass his special Acts, if he may take his courage in his own hand and pass an Act, instead of blurring his responsibility with that of the Ministers ?—This is a question that Sir Tej raises again this

morning upon which we have had a good deal of previous discussion, and it is a question, I think, in which there is certainly justification for differences of opinion. Sir Tej has taken the view that the Governor's action of this kind should not only be distinct from ordinary legislative action, but should appear to be distinct.

6463. Yes ?—Sir Tej is afraid that if this action of the Governor appears as the act of the Legislature, the responsibility of the Legislature will be blurred and, possibly, the responsibility of the Executive, and the general position of the Chamber and the Legislative organs in the Provinces will be undermined. That is one point of view. The other point of view is that it is worth while giving the Governor the opportunity to carry the Legislature with him, and it is worth risking something of this danger of blurring responsibility in order that, if possible, the Governor should carry the Legislature with him. On that account, we, taking that view, have made proposals under which it is possible for the Governor to carry the Legislature with him by introducing an Act of this kind, and, if possible, getting the support of the Legislature. If, of course, he fails to get that support, he must have power to enact the legislation himself, but it is really an issue for the Committee to consider between the danger that Sir Tej foresees of blurring responsibility, and the advantage that we see in our proposals of giving the Governor an opportunity of trying to take the Legislature with him.

Archbishop of Canterbury.

6464. One word, Secretary of State. Contemplating the case when the Governor has approached the Legislature and hopes to carry it with him for some special Bill and he fails, is not any action that he then takes prejudiced because he has openly failed to carry the Legislature with him ?—No, his powers are in no way infringed.

6465. His powers will not be, but his position will be very much the worse if he has formally approached the Legislature and the Legislature has refused to give him any sanction. Would it not be

better for him that he should take the responsibility from the first in his own hands?—It is, as I say, a question to which there is no perfect answer. Upon the whole, I take the view that it is better that the Governor should try to take the Legislature with him.

Marquess of Salisbury.] Might I put a question just on the mechanical difficulty of how it is going to work, if Sir Tej will allow me for a moment?

Sir Tej Bahadur Sapru.] Certainly, my Lord.

Marquess of Salisbury.

6466. *Ex hypothesi*, the Governor is not working with his Ministers, because, otherwise the simpler plan would be for the Ministers to introduce the Bill, so *ex hypothesi*, he is not working with his Ministers. Then who is going to introduce the Bill and who is going to defend it and explain it in the Legislature?—He sends a message. The governor is entitled to send a message to the Legislature asking for legislation.

Sir Austen Chamberlain.

6467. 92 (b) deals with the Message; under 92 (a) he presents or causes to be presented, a Bill with a message. Then how is the Bill to be contained in the message?—Yes.

Marquess of Salisbury.

6468. No one knows better than the Secretary of State that you do not merely send a Bill and lay it on the Table; somebody must be there to explain and defend its provisions, and so on. Who is going to do all that under those circumstances?—The Governor would have to find somebody who would take the responsibility of introducing it. If he could not find anybody, obviously, *cadit questio*, he would have to act *motu proprio*, on his own initiative.

Sir Tej Bahadur Sapru.

6469. Pursuing that very line, because I was coming to it, the Prime Minister or the Governor is definitely opposed to the policy of the Governor's Conference upon a proposed Bill. The Governor then approaches the Leader of the

Opposition who wants to turn out the Prime Minister of the day, and the Leader of the Opposition says: "Yes, I am ready to pilot your Bill". That would introduce an element of great demoralisation in the whole Government and in the whole Council. The Governor has got no official representative of his who will fight for that Bill. The Leader of the Opposition will simply turn out the Minister of the day and say: "Yes, I am willing to oblige you, and incidentally, to put myself in the line of the Prime Minister". It introduces an element of great demoralisation in whole Council?—My Lord Chairman, I have never regarded a question of this kind as a question of principle. It is really one of those questions in which every justifiable criticism can be made against either course. Upon the whole, I have thought it was better to give the Governor this chance to carry the Legislature with him. None the less, I am quite conscious of the kind of difficulties that Sir Tej has suggested, and it is a case of weighing up the objections to each of these two courses.

Lord Irwin.

6470. May I ask the Secretary of State one question?—Is it not the case that those who considered this plan before it was concluded in the White Paper, were conscious of all these difficulties, but were anxious, if possible, to devise some machinery by which the general public opinion might be taken into greater account than is possible in the case of ordinances. I am sure Lord Reading, and I myself, certainly, could quote cases in which we found great inconvenience in an analogous situation in which, having made a Bill the subject of a recommendation to the Assembly, it was not thereafter possible to take any account of any suggestions for a compromise made by the popular element in the Assembly, without tearing the whole thing up and beginning again at the beginning, for which there was very often not time. This plan, which I am quite sure the Secretary of State is fully conscious of the difficulties of, was devised with a view of trying to get public opinion and the view of the Governor

and the Governor-General, as the case may be, together?—Lord Irwin has expressed very exactly the views that did lead us both in the Round Table Conference and subsequently to make this proposal. It was exactly with that object in mind that we made these proposals.

*Sir Tej Bahadur Sapru.*

6471. Sir Samuel, may I put it to you like this: There is the danger at the commencement of this procedure contemplated by section 92 of undermining the authority of the Government of the day and bringing it into conflict with its own Legislature. On the other hand, there is the danger of the Governor's authority being undermined if the Legislature refuses to listen to his advice and to pass that Act; and the third point is, that any machinery that you may devise for a Bill like that to go through, it is bound to be imperfect in the absence of an official bloc. Now taking these three points into consideration, would you please tell us whether you would take the matter further into consideration. I do not want anything more than that?—I think, certainly in a question of this kind in which I have said at the very beginning it is just the kind of question upon which there are legitimate differences of opinion, obviously we must take into account the very strong objections that Sir Tej has made, and that were re-echoed, to some extent, by His Grace the Archbishop of Canterbury, but I would ask Sir Tej at the same time to consider the other side of it, too.

*Sir Tej Bahadur Sapru.* I have been considering it.

*Sir Austen Chamberlain.* May I just say before you leave that subject, I see the advantage of the Governor carrying the Legislature with him, if he can, but I cannot see that you have provided any machinery by which he could carry the Legislature with him. That is really the point of the Noble Marquess who sits next to me.

*Archbishop of Canterbury.* Might I, with great diffidence and with respect, ask the Secretary of State, in view of this discussion this morning, to ask

whether, having regard to the other safeguards, and having regard to all these difficulties which are mentioned to-day, 92 (a) is really necessary—I see a special point in 92 (b)—but whether 92 (a) is really necessary. I think if he could tell us later on his considered judgment in that matter, it would be very helpful to us all.

*Lord Eustace Percy.* In considering that, I hope the Secretary of State will also consider that the mere presentation of a message, even if the Bill goes no further, might be very useful to the Assembly, supposing the Governor was contemplating a dissolution on the issue.

*Sir Austen Chamberlain.* But he is not obliged to send a Bill in order to find an opportunity of sending a message.

*Lord Eustace Percy.* But whether any special provision is necessary to enable him to put the message in the concrete terms of a Bill, is a matter for consideration.

*Sir Tej Bahadur Sapru.* Now may I ask you to consider this further point in this connection: Supposing the Governor's Act has been passed under the procedure contemplated by Clauses 92 and 93, and a few months later the Legislature wants to repeal that Act, would it be open to the Legislature to do so, and, if so, subject to what conditions? Who could repeal it?

*Marquess of Salisbury.* The Governor could stop it, I suppose.

*Witness.* It would be a question really whether it was a Governor's Act or whether it was an Act of the Council. Supposing the Governor introduced it as a Governor's Act and in the course of the discussions it was found that it had the support of a majority in the Council, it would then become an Act of the Council, and, as such, would be just like any other Act. If, on the other hand, it remained a Governor's Act, and the Legislature subsequently passed an amending or repealing Act, then the amending Act would have no validity against the Governor's Act.

6472. But do you deny that it is open to the Legislature to pass an amending Act amending the Governors Act?—If you recognize that, then I would submit

that it might introduce the element of deadlock between the Governor and the Legislature?—A Bill of that kind could only be introduced with the previous sanction of the Governor.

6473. Is there anything to that effect in the White Paper?—Yes; Proposals 119 and 120.

Lord Rankeillour.] He could also stop an amending Act under 94.

Sir Tej Bahadur Sapru.

6473A. I suggest that has nothing to do with this, if you will look into it. I think there is an omission?—I think No. 120 covers it.

6474. But the consent to the introduction has nothing to do with it?—(Sir Malcolm Hailey.) “The introduction in a Provincial Legislature of legislation on these latter subjects will require the consent of the Governor of the Province given in his discretion”. That is the last sentence of No. 120.

Marquess of Reading.] That is the same as you have had hitherto.

Sir Tej Bahadur Sapru.

6475. Does it cover Nos. 92 and 93?—(Sir Samuel Hoare.) I am informed it is covered. It was intended to cover it.

Marquess of Reading.] Does not it stand in the same position of principle as an ordinance, just in the same way?—I think, apart from details of this kind, the main question is whether the Governor should have these powers or should not. As I say, I incline there to one view, but I quite realize there are these differences of opinion. We had better, in view of the differences of opinion that have been expressed, look at the question again.

Sir Tej Bahadur Sapru.

6475A. I will not trouble you any further with regard to that. With regard to No. 103, I have only one question to ask: Ordinances to be passed under No. 103 relate strictly to matters coming under the Governor's special responsibilities?—Yes.

6476. Could not the Governor easily obtain the emergency ordinances from the Governor-General?—This again is

one of the questions that we have considered at some length in the past, namely, whether it is necessary for the Provincial Governor to have an ordinance-making power in addition to the ordinance-making power of the Governor-General. We have taken the view that, as a consequence of the introduction of Provincial Autonomy, the transference of Law and Order to the field of Provincial subjects, the Provincial Governors should have these powers. It is again one of those questions upon which differences of opinion have been expressed, but we do definitely take the view that with Law and Order a Provincial subject, the Provincial Governor ought to have this ordinance-making power, always, of course, remembering that ultimately he is responsible to the Governor-General and ultimately to the Secretary of State and to Parliament.

6477. Assuming Provincial autonomy, such as it is, the ultimate responsibility for the maintenance of Law and Order remains with the Governor-General. He has the control of the Army?—That is so.

6478. Therefore, the integrity of Provincial autonomy would not be affected if you were to confine this power of ordinance-making to the Governor-General, which would be decided in a few hours by the Governor-General at the instance of the Governor?—I have always taken the view that it is more in conformity with at any rate my conception of Provincial autonomy that the Provincial Governors should have these powers.

Mr. M. R. Jayaker.

6479. May I put one question to clear this matter up?—Yes, please.

6480. I find that the scheme of the White Paper is that when the Governor acts in the field of special responsibility he is subject to the general supervision and control of the Governor-General?—Yes.

6481. Is it the case that when a Governor passes an ordinance under paragraph 103, operative in his own Province, has the Governor-General power to interfere with that ordinance?

—Yes ; I should say the Governor-General could stop the Governor from issuing the ordinance, but what I imagine would happen would be this : I can imagine that in situations of great gravity the Governor-General would take a very close part in what was happening within the field of a Provincial Governor's special responsibilities in a particular Province. But I can also imagine that normally there would grow up a convention between the Governor-General and the Governor under which it would be understood that the Governor would act upon his own initiative within that convention. That is the kind of way in which I see the thing happening in practice.

Archbishop of *Canterbury*.

6482. May I put this point, following up what Mr. Jayaker has said (the Secretary of State will know) : It seems to me very desirable that there should be some reference to the Governor-General before the Governor of a Province takes the very grave responsibility of issuing an ordinance of this kind. It might very conceivably provoke a good deal of difficulty in the Province with regard to which the Governor-General might ultimately, having regard to his position and ultimate force, be obliged to intervene, and yet he himself never be consulted about it beforehand. What I want to know is, whether it is possible to insert in No. 103—"after consultation with the Governor-General" ?—I think that would be a mistake. I think one must here again allow an element of latitude. In the case of a grave situation, I cannot believe that the Governor-General would not be fully informed of what was happening and would not make his voice and, if necessary, his decision, heard. But, as I said just now, I think there may be other cases within a working convention that may require urgent treatment in which it would be better for the Governor to act at once on his own initiative. After all, those of us who are anxious to make Provincial autonomy as effective as possible do attach some importance to making it appear to be the Governor in the Province who is acting, even though the Governor-General constitutionally may be

behind him. I believe myself that there is a good deal to be said in favour of a course of action that does give the Governor this power and does make it appear in the Province that it is he who is acting.

Earl *Peel*.

6183. You draw a distinction between the first ordinance and the renewal of the ordinance. You suggest that a convention should grow up anyhow as giving some independence to a Governor as enacting the ordinance, but as regards the renewal of it, it seems to me a different situation arises. That is far more serious, and if that is to be done it has to be put before Parliament and if it were to be put before Parliament it would go through the Governor-General and in that case the Governor-General ought to have more authority, or exercise his authority more in the renewal case than in the primary case, ought he not ? Of course, it would be more important if it had to be renewed. You would draw a distinction, therefore, between the convention in the first case and in the renewal case ?—I should imagine that both situations would be covered by a convention. I cannot imagine for a moment that in the case of a renewal of ordinances in which Parliament has to give its sanction, the Governor-General would not be playing a very important part. After all, the case for the renewal of the ordinances would have to come through the Governor-General as Lord Peel has just suggested.

Sir *Austen Chamberlain*.] Mr. Secretary of State, the Governor has a geographically defined responsibility ?—Yes.

6484. He must think of his Province ?—Yes.

6485. And his responsibility is for his Province ; but the introduction of an ordinance in a Province might affect the general condition throughout British India ?—Yes, that is certainly so.

6486. I think if it were useful (only it would not be useful) I could find in my memory cases where a Governor would have wished to act in respect of his particular Province but was restrained from doing so for a time at any rate by the Governor-General in the larger interests of India as a whole. Ought not that case to be provided for not merely by a

convention but by some definite reference to the Governor-General?—It certainly is provided for. The Governor-General has full powers to give what directions he thinks fit to the Provincial Governors.

Archbishop of *Canterbury*.

6487. Yes, but in the case in point the Provincial Governor who has to act in an emergency is under no obligation to let the Governor-General know what he is doing?—I am assuming that each of them knows fully what the other is doing.

Marquess of *Reading*.

6488. Secretary of State, it has happened again and again, and Lord Irwin certainly will have had experience of it, that applications have been made by a Governor to the Governor-General under the present system where the Governor has no power of issuing ordinances, to issue an ordinance when the Governor-General has taken the view that the time had not arrived, and would not grant it. I have had such cases time and again and I am sure Lord Irwin has. It has happened to me. May I put to the Secretary of State for consideration—after all, it is a very difficult matter—is not it desirable that it should be made quite clear that the Governor should never issue an ordinance without having consulted the Governor-General. A convention growing up may lead to all kinds of difficulties. What I suggest to the Secretary of State is that, as he has pointed out to us, the Governor-General is ultimately responsible for all India, and he has to take everything into account. The Governor has only to deal with his Province, and it would lead to a very difficult situation. What I am suggesting is that you might possibly have difficulties arising between the Governor and the Governor-General if the Governor issued an ordinance without having consulted the Governor-General and having had his assent, because he is under the supervision, direction, and control of the Governor-General. Therefore, what I do suggest to Sir Samuel for his consideration is as to whether it should not be prescribed in this way, that it would be after consultation with the Governor-General. Whatever form it is I do not mind, but the important thing is that you should

avoid getting into a possible conflict. The Governor pressed with the position in the Province, the Governor-General having the ultimate responsibility and seeing what the position is in all India, you should make quite clear at the first that there should not arise a conflict between the Governor and the Governor-General on this point. Would you consider that, Secretary of State?—I am quite ready to consider the suggestions that have been made, always keeping in mind my desire to make Provincial autonomy as effective as possible. I think, speaking offhand, it might be possible to meet the views of some of the Members of the Committee in the instructions to the Provincial Governors, but, be that as it may, I am quite ready to look into the question again, in view of the discussion, and to see whether we can reconcile the two points of view.

Sir *Tej Bahadur Sapru*.] Pursuing this matter a little further, if you are to agree to the Governor obtaining the previous consent of the Governor-General before he issues an ordinance, why not leave the matter entirely in the hands of the Governor-General who may provide by his Indian ordinance for a grave situation travelling to neighbouring Provinces? It is conceivable that the Governor of the United Provinces may take one view and the Governor of Bihar may take another view.

Mr. *Zafulla Khan*.] That is surely provided for already; that surely would be possible.

Sir *Tej Bahadur Sapru*.

6489. In a case like that the Governor-General will be the sole authority to provide for the entire situation in the two Provinces?—As Sir Tej knows, we have had a lot of discussion about this and there was a very strong view expressed at the last Round Table Conference in favour of the Provincial Governor having these powers, assuming that there was an ordinance-making power at all.

6490. Not by me?—No, I would not say that at all. Sir Tej has always been perfectly consistent in his view.

6491. I will pass to the next Proposal—No. 104. As regards No. 104, would you kindly tell us whether the procedure laid down in that paragraph is supposed to correspond as nearly as possible to the

English procedure of Order in Council and, if so, will you kindly explain that? I am only wanting information on that particular point?—Speaking generally and without tying myself down to details, my answer would be Yes. We have an Act of Parliament which I think is called the Emergency Powers Act.

6492. Yes, I know it?—Under which it is possible for a Cabinet to advise the issue of Orders in Council, with the proviso that those Orders in Council have to be sanctioned by Parliament within a given time.

6493. That is all I wanted to know in regard to that?—Yes.

6494. There was one question that I would like to put to Sir Malcolm Hailey. That is only that I am anxious that the position with regard to that should be clearly explained to the Committee. That is with regard to the judicial system. Take, for instance, the United Provinces, of which Sir Malcolm Hailey is Governor, and with which he is quite familiar: So far as the civil side of the administration is concerned, will you kindly tell the Committee what exactly is the measure of control which the High Court exercises over the civil administration of justice?—(Sir *Malcolm Hailey*.) Sir Tej, no doubt, is not referring strictly to judicial control as contained in the Codes, but purely to administrative control.

6495. Administrative control?—The High Court recommends to the Local Government the appointments of the superior civil judicial officers. With regard to the recruitment of the inferior judicial officers, the High Court also makes its recommendations to the Local Government and those recommendations are practically invariably accepted by it.

6496. Is it or is it not a fact, Sir Malcolm, that so far as the lowest grade in the United Provinces and in every other Provinces is concerned, whom we call Munsifs, they are recommended solely by the High Court?—Solely.

6497. And upon their satisfying such tests as the High Court has prescribed?—That is the case in the United Provinces. In some Provinces the lowest grade of Civil Judges is actually appointed under local legislature by the High Court itself. It is the High Court, therefore, which lays down in effect the qualifications required for recruitment to the judiciary,

just as the High Court in itself controls the qualifications of advocates and legal representatives. The High Court recommends to the Local Government the transfers and postings of the higher officers of the Civil Judiciary.

6498. Including the District Judges?—Including the District Judges, and itself posts, transfers and gives leave to the lower Civil Judiciary, that is to say, the subordinate judges and the Munsifs.

6499. Has that system, to your knowledge, worked well, on the whole?—Yes, it has worked so well that where the nominal power of recruitment and the like rests with the Local Government which acts on the recommendation of the High Court, I have recommended that we should have a convention that the Local Government should invariably and without any question accept the opinion of the High Court, so that it practically amounts to complete control of the High Court. We consider that those are matters which are really best left in the hands of the High Court.

*Chairman.*] May I remind you that the arrangement is that the Judicature, Federal, High and Supreme Courts, should be dealt with after Federation? When you opened with this question I imagined you were about to relate it in some special way to the matter of the Provinces which is that before the Committee and Delegates at this moment.

*Sir Tej Bahadur Sapru.*

6500. There are two more questions I can put and then I can conclude my examination. With regard to the Ministerial side Sir Malcolm, you will agree that the Chief Justice has got the power to appoint the Ministerial staff of the High Court under the Statute as well as under the Letters Patent?—Under the Letters Patent.

*Marquess of Reading.*] Does not the whole of this question arise under the judicature? I only suggest it because it is opening up exactly the point which we shall have to go into.

*Sir Tej Bahadur Sapru.*] Very well, That is all that I want to put to you.

*Sir H. Gidney.*

6501. Secretary of State, in your reply to Lord Salisbury on page 3 of the Evidence of the 11th day—the questions are



5623 and 5627—you stated that the Cabinet would be formed from those persons who command the largest following. Further on, you said the Government has got to consider minorities. In answer to Question 5627, you elaborated the points and said: "I mean minorities as we always define them in dealing with Indian affairs, namely, the principal religious minorities." Could you tell me what you mean by the principal religious minorities?—I think Sir Henry Gidney knows as well as I do what I mean. I mean the minorities in the sense in which we have always discussed them at all the discussions at the Round Table Conferences.

6502. Have we ever discussed them from a religious point of view?—It may be that "religious minorities" was not a very carefully selected epithet; what I mean is the minorities in the sense we have always discussed them.

6503. In reply to Sir Austen Chamberlain, which Sir Malcolm Hailey elaborated, he said that the Governors of the Presidencies should have an officer of the rank of a Counsellor, or that he should be of the status of a Counsellor. Would not that be introducing the appointment of a non-elected Minister, in a way?—(Sir *Malcolm Hailey*.) No, Sir; he is a personal officer attached to the Governor.

6504. What would be his duties?—I am afraid that I could only say that his duties would be partly those now taken by a Private Secretary, but also, on a somewhat larger scale, those that will arise owing to the exercise of the individual powers of the Governor. He would be in charge of the Governor's Secretariat, and he would be the informal representative of the Governor in discussions with visitors and on occasions, no doubt, with Ministers.

6505. In reply to Major Cadogan, Secretary of State, you differentiated in respect of the North-Western Frontier tribal areas. Could you tell the Committee whether the tribal area is better than the other part of the North-West Frontier?—(Sir *Samuel Hoare*.) That is a geographical question; I should have thought anybody could have found the answer by looking at the map. I could not say off-hand.

6506. I ask that question because in that Province you have practically ad-

mitted the introduction of a dual office to be held by the Governor, namely, that of a Governor and as Agent to the Governor-General. If you can introduce it in the North-West Frontier so far as peace and tranquillity is concerned, would it not be as easily introduced into Bengal, so far as the Terrorist and the other movements are concerned?—I do not myself see any relation whatever between the two. I have always assumed at every discussion we have had that there was a unanimous feeling amongst everybody in every Conference that the tribal tracts were in special relation to the rest of the Provinces, and the North-West Frontier Province, and that special treatment had to be applied to them.

6507. Would that not equally apply to the Terrorists in Bengal?—I have just given the answer; in my view, not at all.

*Sir Austen Chamberlain.*

6508. Before you leave that point, may I put one question to the Secretary of State. Did you mean by your last answer to exclude consideration of any special arrangement in respect of Terrorists or subversive movements?—Not at all. My answer was directed to the question of Sir Henry Gidney, that seemed to imply that there was some similarity between Bengal, in which there is no geographical distinction between one class of people and another, and the tribal tracts in which there is a definite distinction between the people living in the tribal tracts and the people living in the other districts.

*Sir Henry Gidney.*

6509. On page 37 of the White Paper Introduction, paragraph 75, regarding fundamental rights, in which you say that there are serious objections to giving a statutory expression to any large range of declarations, and then continue it by saying that some of these fundamental rights might find place in a pronouncement by the Sovereign, will that carry with it a statutory position?—No. It is just because of that that I said that certain of these rights that are not susceptible of judicial decision, can, so far as I can see, if they are to find

expression anywhere, only find expression in that kind of channel.

6510. Arising out of the discussion that Sir Tej introduced, and the great difficulties that you yourself admitted which a Governor will be faced with in certain contingencies, do you, or do you not, think that, complicated as these issues are, and difficult as it will be for the Governor to exercise the special responsibilities without raising a storm of opposition, this is likely to whittle the value of the operation of the safeguards of the minorities, for instance ?—I do not understand the question entirely.

6511. I think, Secretary of State, that in your mind you show that there would be a great deal of difficulty that the Governor would have to face if he decided in certain matters against the wish of his Minister. I take it that the protection of the minorities would be one of the matters most closely connected with the administration of the Governor, so far as the Minister is concerned. Do you not think that if he did want to operate his own view in a certain line for a minority, and it was against the wishes of the Minister, that would render his position a little difficult, if he forced the operation of that ?—What would be Sir Henry Gidney's alternative ? That there should be no protection of the minorities at all ?

6512. No. I want to carry it a little further than that. If in that case the Governor found that he could not interfere, would it be possible to allow an appeal to the Governor-General ?—An appeal from whom ?

6513. From the community or the interests concerned ?—There is not anything to stop them sending a Memorial to the Governor-General.

Mr. N. M. Joshi.

6514 Mr. Secretary of State, I want to ask a question about the special responsibility of the Governor as regards the protection of the rights of any Indian State. I want to ask you whether you consider it to be necessary that the interests of British Provinces should be similarly protected against any action that may take place in an Indian State, and how do you propose to do that ?—I was just trying to contemplate the kind of case Mr. Joshi had in mind.

6515. May I remind you ?—The Governor-General would act under his paramountcy powers ?

6516. Last time when you spoke on this question of the protection of the rights of the Indian States, you gave an instance, namely, certain bodies of men may like to enter an Indian State for some political agitation, and you said in that case the Governor would have a right ?—I know, and the answer I have just given is the answer that covers that case, the reciprocal case, namely, that the Viceroy would intervene under his paramountcy powers.

6517. So the paramountcy powers will cover an incident of this kind ?—Yes.

6518. My next question is as regards paragraph 79 : "A member of a Provincial Legislative Assembly will be required to be at least 25 years' of age and a British subject or a subject of an Indian State." Does this paragraph give a right to any British subject or a subject of an Indian State to be a candidate for the membership of a Provincial Legislature ?—Yes.

6519. May I ask you whether you would on the ground of reciprocity also see that any British-Indian subject would get the right to be a candidate for any Legislature that may exist in any Indian State, and how do you propose to do that ?—I do not propose to do it.

6520. May I ask you why ?—Because we have always assumed in all the discussions we have that we do not intend to interfere in the internal Government or administration of the Indian States.

6521. May I ask you then whether this right which you are giving to the subjects of the Indian States is only a one-sided right ?—Mr. Joshi can put what comment he likes upon it.

6522. May I ask you another question on the same point ? As this clause gives the right to any British subject, including British subjects domiciled in the Dominions, such as South Africa, when a South African will get a right to become a candidate for the membership of an Indian Legislature when Indians in South Africa will not get that right, do you propose that the Indian Legislature may have some right to qualify this right of the British subjects in such cases ?—I would not imagine that a

South African candidate would have very much chance of election under those conditions.

6523. A South African candidate may have a chance of election by a European constituency?—The right is surely with the electors. If they wish to elect him, that is their affair. I should have thought it was very unlikely.

6524. Now, as regards the Provincial Upper Chambers, may I ask you how you visualise the representation of labour in the Provincial Upper Chambers?—Had we not better take that question up with the Franchise questions?

6525. Very well. May I ask you a question on the Provincial list of subjects on page 118? Item 69 is Health Insurance and Invalid and Old-Age Pensions. May I ask you why this item of Health Insurance and Invalid and Old-Age Pensions is made purely Provincial, when the other items, Welfare of Labour, are made concurrent jurisdiction? In the third list, on page 119, you will find Welfare of Labour and other matters connected with Labour Legislation are made matters of concurrent jurisdiction. May I ask you why you have made Health Insurance and Invalid and Old-Age Pensions, these two items, only Provincial jurisdiction?—This list is the result of very long discussions both at the Round Table Conferences and particularly at the last Round Table Conference, and since then as a result of a great deal of correspondence which we have had with the Government of India. I do not even now say that it is final or that it should not be amended in one direction or another, but I think it is very difficult in a discussion of this kind about the Constitutional powers of the Provinces, to go in detail into one particular item in a list of this kind. Mr. Joshi must believe me when I say it is essentially a question for the Constitutional and legal experts. I think myself that we had either much better have a specific discussion upon the list, or, what would be much better, would be if Members of the Committee and Indian Delegates who are interested in the list as a whole, or in particular items in the list, would have a talk with the Constitutional expert here about it.

6526. And if I get an opportunity of talking to the Members of the Committee

and the Constitutional experts, I shall be quite satisfied. Then I want to ask you one question: In reply to Sir Abdur Rahim, you stated that the Governor will have discretion to allow or not to allow discussion of matters in which he takes action on his own special responsibility?—Which question are you referring to, Mr. Joshi?

6527. On the last page of your First Day's Evidence. On page 676 the question was asked and your reply is on page 677?—Yes.

6528. The question which I want to ask you is this: In view of the fact that the Governors are given these very wide special powers, do you not think that the smallest protection which the people will have against the arbitrary use of such powers is free discussion of the Acts of the Governor, and, therefore, in this matter the discussion should not be left to the Governor?—No. I gave my answer three days ago. I am not prepared to alter it.

6529. May I ask you one question: Whether you would be prepared to give a list to this Committee of the use of the powers by the Governor-General and by the Governors of Provinces in disallowing free discussion either by preventing legislation being brought before the Legislatures, by disallowing Resolutions, by disallowing adjournment motions, since the new Constitution was brought into existence?—I think it would be quite impossible to make such a list, and the whole object of almost everything I have said to-day, and two days ago was meant to imply that it was quite impossible to specify all the conceivable conditions in which a Governor might have to intervene. That does not mean that the Governor is constantly going to intervene, but it does mean that it is quite impossible to specify the exact occasions.

6530. Do not you think the Joint Select Committee will get an opportunity to know what use has been made so far of the powers which the Governor-General and the Governors possess?—I should have thought that is a matter of history.

6531. If it is a matter of history do not you think we should learn something from history?—That is a very wide question.

Lord Irwin.

6532. Is all that information not available to Mr. Joshi, Mr. Secretary of State ?—I should think so, certainly.

Mr. N. M. Joshi.] The information is not only available to me, but I have some experience as a Member of the Legislature for the past 12 years, and, after having got that experience, I am asking whether such a power should be given.

Chairman.] Would you put your next question, Mr. Joshi ?

Mr. N. M. Joshi.] I have no more questions.

Dr. B. R. Ambedkar.

6533. I want to know whether the Secretary of State desires me to reserve any questions upon Second Chambers for the Provinces ?—I would suggest, so far as the Constitution of the Second Chambers goes (the membership), perhaps it would be better to take that with the franchise generally.

6534. This franchise question ought to be excluded at this stage ?—Whatever the Committee thinks, I should have thought it came better into the franchise.

Dr. B. R. Ambedkar.] I will not ask any questions of the Secretary of State.

Chairman.] I think the Secretary of State's suggestion is a practical one. I hope you will not put questions at this stage.

Dr. B. R. Ambedkar.

6535. I was going to ask the composition of the Second Chamber. Would it be better to reserve it ?—Yes, I think perhaps that would be better.

6536. You said in the course of a reply to a question put last time, that you contemplated that in the Provinces the Ministers could be drawn from either Chamber, both the Lower and the Upper ?—Yes.

6537. You remember that in the Second Chambers, as suggested in the White Paper, there are to be 10 nominated Members ?—Yes.

6538. Is it the proposal that these 10 nominated Members who will sit in the Upper Chamber will also be eligible for being Ministers ?—Yes, I would not draw any distinction between them and the others.

6539. The nominated Members would be eligible for being Ministers ?—Yes, certainly ; that is how I conceive it to be.

6540. In the present Government of India Act there is a distinct provision that any member who is a nominated member of the Provincial Legislature is not eligible for being a Minister ?—I take it from Dr. Ambedkar that is so.

6541. I stand subject to correction, but I believe that is the position ?—Yes.

6512. So you are really introducing the very important change by allowing nominated members in the Upper Chambers to be Ministers in the new Government ?—It is, of course, a very different kind of Government.

6543. I am not going into the reasons, but I am only stating the facts ?—Yes. I think there is a great deal to be said for giving the Governor a free choice, always assuming, Dr. Ambedkar, that the Cabinet is collectively responsible, and there would be no intention of imposing a Minister against the wish of the Cabinet in a case of this kind.

Dr. B. R. Ambedkar.] That would lead me to ask a question with regard to the composition—

Mr. Zafrulla Khan.

6544. If Dr. Ambedkar will forgive me, perhaps the Secretary of State means against the wish of the person commanding the largest influence, but the Cabinet will not be composed until everybody is in it. That would be the nominated and the elected portion also ? I am assuming that the responsible Government, whether you call it the Cabinet, or whether you take the Prime Minister as the exponent of its views, desires to have a Minister of this kind, and amongst the nominated members of the Second Chamber such a Minister is forthcoming, and he is then appointed to be a Minister just like the other Ministers.

6545. So you visualise that the Governor sends for the person who commands, in his opinion, the largest support in the Legislature (I will not say the Chamber because we are discussing the case of two Chambers) and proceeds in consultation with him to select the Ministers, and when that process is more or less complete then this Cabinet express a desire to the Governor to have

included among them somebody from among the nominated members. That would be more or less the process ?—I would not restrict the situation to that position.

*Sir Austen Chamberlain.*

6546. If it were the case (a very unlikely one perhaps, but a possible one) that one of the nominated members was the person most likely to command a majority, you would begin with him?—You would begin with him.

6547. In fact, you would draw no distinction between him and any other member of either of the Houses ?—That is so.

*Mr. Rangaswami Iyenger.*

6548. If I may quote from the Federal Structure Sub-Committee's Report, page 16 : " The Governor-General's Instrument of Instructions will then direct him to appoint as his Ministers those persons who command the confidence of the Legislature, and the Governor-General, in complying with this direction, will, of course, follow the convention firmly established in constitutional practice throughout the British Commonwealth of inviting one Minister to form a Government and requesting him to submit a list of his proposed colleagues ". That was the position when we discussed it in the Round Table Conference ?—I think I made my own views clear yesterday and the day before, as to my views of collective responsibility in the Governments.

*Sir Tej Bahadur Sapru.*

6549. Is Sir Samuel right in conceding that the present Government of India Act makes a distinction between elected and nominated members for appointment as Ministers ?—It was new to me, but I took it from Dr. Ambedkar.

*Dr. B. R. Ambedkar.*] I used it in the sense that it must be an elected member within six months.

*Sir Tej Bahadur Sapru.*] So far as I can see the Government of India Act makes no distinction between elected and nominated members for the purpose of appointment as Ministers. The Section which deals with that matter is Section 52.

*Dr. B. R. Ambedkar.*] He has to get himself elected.

*Sir Tej Bahadur Sapru.*

6550. I thought Dr. Ambedkar put it to Sir Samuel, and suggested that the Government of India Act makes a distinction between elected and nominated members in the matter of being Ministers ?—(Sir *Malcolm Hailey.*) It only does so to the extent of laying down that a Minister shall not hold office for a longer period than six months unless he becomes an elected member.

6551. But if there is a nominated member there already, there is nothing to prevent you from appointing him Minister ?—That is so.

6552. And that has been done ?—Yes.

*Sir Tej Bahadur Sapru.*] The law, as I understand it, is this : It is open to the Governor to appoint any outsider a Minister, provided that outsider gets elected to the Legislative Council within a period of six months. Similarly, it is open to the Governor to appoint a Minister from the block of nominated members who are already there. The Act does not make any distinction.

*Mr. Zafrulla Khan.*

6553. Once a nominated member is appointed, does he continue to be a nominated member all the time, or must he seek election ?—(Sir *Samuel Hoare.*) No, I thought that was quite clear. A nominated member is treated just like anyone else.

*Dr. B. R. Ambedkar.*] He cannot continue to be a Minister after six months unless he gets elected.

*Sir Austen Chamberlain.*

6554. There is no question, is there, of seeking an election. The qualification is that he should be or become within six months a member of the Legislature ?—That is it. (Sir *Malcolm Hailey.*) An elected member.

*Sir Hari Singh Gour.*

6555. He must be an elected member ?—(Sir *Samuel Hoare.*) We are talking about two things, and this is not really one of the very important details.

*Sir Austen Chamberlain.*

6556. I want to make it quite clear that the Secretary of State understood my question, and that his answer was

directed to my question. I was not speaking myself of the present system, but of the new system contemplated by the White Paper, and my suggestion there is that the qualification for a Minister is that he should be or become within six months a member of the Legislature?—Yes, that is the proposal in the White Paper.

*Sir John Wardlaw-Milne.*

6557. May I ask a supplementary question on that? It is not clear to us what the Secretary of State's reply was to the procedure point outlined by Mr. Zafrulla Khan. He rather indicated that the procedure would be that this nominated member would only become a Member of the Cabinet if he was asked for by the Prime Minister or by the person who wished to form the Government. As I understand it, the Secretary of State says that that is not the case, that there is no question of his being specially asked for after the Cabinet is formed, but that he may in fact be proposed as a Member of the Cabinet from the very beginning?—He will be treated just like any other Member of one or other Chamber.

*Dr. B. R. Ambedkar.*

6558. May I read the section?—Does it really very much matter what the position is now?

6559. It matters because I want to ask what the exact position is. Section 52, sub-section 2 is: "No Minister shall hold office for a longer period than six months unless he is or becomes an elected Member of the Local Legislature." All I wanted to suggest was that the Act does not contemplate the continued holding of a nominated member as a Minister, which would be the case if the suggestion in the White Paper were adopted, that a nominated Member of the Second Chamber would be entitled to be a Minister. With respect to the appointment of the Ministry, I want to draw your attention to the recommendation of the sub-committee on Provincial Constitution. They said: "The Sub-Committee is of the opinion that in the discharge of that function the Governor should ordinarily summon the Member possessing the largest following in the Legislature and invite him to suggest the Ministers and submit their names

for approval." Paragraph 67 says that he shall make "his best endeavours to select his Ministers in the following manner"—which I regard as a considerable departure from the recommendation of the Provincial Constitution Committee?—I do not think there is any departure at all. The Committee said ordinarily, and this is, I imagine, what will ordinarily happen.

6560. You do not think it would be necessary, in the interests of fostering collective responsibility, to impose an obligation upon the Governor that he should follow a particular course in the formation of the Ministry?—The Round Table Committee that Dr. Ambedkar quotes did not think so.

6561. I thought that was the thing?—You have just read a quotation from them saying "ordinarily" they thought so.

6562. Or that they should do it—not "best endeavour"?—It is a question of words.

6563. The next question I want to ask is on the question of this ordinance power of the Ministers under Proposal 104. What I want to know is this: Why is it necessary to make a provision of this sort in the Constitution itself? Would not it be possible for a Ministry in a Provincial Legislature to have an Emergency Act passed by the Legislature itself similar, for instance, to that of 1920 in this country, and to derive its powers from the Acts passed by the Legislature? I am talking about No. 104: Would not it be possible for the Provincial Ministry to have an Act passed by the Provincial Legislature giving them the necessary powers to act in a specified emergency?—I should have thought this was essentially a power that every government must possess, namely, of taking emergency action when the Legislature is not sitting and particularly necessary in a country like India where there are great distances and where it may take some time to get the Legislature sitting.

6564. I suggest the Provincial Ministry can get an Act passed from the Provincial Legislature defusing the emergencies in which they may be called upon to act, and the Legislature may give them the powers. Why is it necessary to make a provision of this sort in the Constitution itself?—Because I regard it as

an essential power that a Government should have, and as we are dealing with the whole field of the Constitution it is the kind of power that ought to be inserted in the Constitution Act.

Dr. B. R. Ambedkar.] It is a power that is intended to be given to a responsible Ministry and it is, in the nature of things, that the responsible Ministry should draw its powers, whether emergency or otherwise, from the Legislature to which it is responsible.

Lord Eustace Percy.] May I remind Dr. Ambedkar that the Act of 1920 in this country only regularized a power which Ministers frequently exercised in the past without legislation? It has always been the practice in this country, that, subject to a subsequent Parliamentary indemnity, a Ministry can issue an Emergency Order.

Dr. B. R. Ambedkar.] That is all I ask.

Archbishop of Canterbury.

6565. If I may just implement what Dr. Ambedkar said, in view of the quite special character of 104, it is not really a safeguard, but is a matter of the procedure of Parliament; is it necessary to use the word "ordinance" which has in other parts of the Constitution a somewhat different significance, and would it not be better to use the term "emergency order"?—I have more than once asked the advice of my Indian and British friends for a better word than "ordinance" for all these powers, whether under 104 or 103. If anybody could find a better word, we are not wedded to any particular word.

Archbishop of Canterbury.] Ordinance is such a special safeguard, that it seems a pity to introduce it in a paragraph for a proposal which deals with ordinary procedure?

Chairman.] Perhaps that is a matter we might resume in discussion.

Archbishop of Canterbury.] Yes.

Sir Hubert Carr.

6566. I wish to refer to Second Chambers again. In answer to question 5735, the Secretary of State gave three reasons which occurred to him with regard to the decision as to having Second Chambers in the Provinces over and above the question

of expense, and one was public opinion. I wanted to ask whether much consideration ought to be given to that in view of the fact that Second Chambers are considered to afford a valuable safeguard for minorities, and since minorities were not able to settle a safeguard for themselves and had to appeal to His Majesty's Government, and got a safeguard in the shape of a communal award, whether it is fair now in this valuable safeguard of Second Chambers to give much value to public opinion?—I think one has got to take both points of view into account, namely, the interests of minorities and also the general feeling in a Province, and one has got to weigh the one against the other. It is this weighing of the two that has led us to suggest that there should be three Second Chambers; but it is open to any Member of the Committee or any Delegate to say that we had not given too much attention to one side or other of the problem, or that we have either suggested too many or too few.

6567. May I suggest, in furtherance of that, that for instance, in the Punjab we are told that there is very strong public opinion against a Second Chamber, and yet the European community is given one representative in a House of 175 Members, which is to be the sole Chamber of that Province. Would the Secretary of State, perhaps, consider that if public opinion was considered sufficient to justify one Chamber there, anyhow the minority such as the European community should have at least three seats?—I am afraid Sir Hubert Carr now is getting dangerously near the Government's communal decision. The difficulty in the kind of case that he has just suggested in a Province in which, it may be, European interests are not so strong as they are in some of the other Provinces is to make it any better in the Second Chamber than it is in the First Chamber. After all, if one keeps to the general lines of the Government's communal decision, it is difficult to contemplate a situation in which the European representation would be substantially very much bigger in the Second Chamber than it is in the first.

6568. May I turn to another subject, and that is the question of Forests. I do not know whether there is any arrangement whereby some check could be kept on the Provincial control of

Forests. The danger that appears to me is that Forests is a Department where there is often a great deal of unpopularity with the public, because of the checks put on hill cultivation, forest cultivation and fuel, and it seems to me that unless there is some check on the Provincial control of the Forests, the Catchment Area of some rivers which affect another Province might be very seriously affected. I am desirous of knowing whether there is any Provision which I have not discovered for keeping some check on that condition?—Sir Hubert has in mind a situation in which the water supply of one Province is injured by the depletion of forests in another Province?—Is that it?

6569. That is it?—I think that is a point we must take into account. I am not clear off-hand whether it is covered in the White Paper, or not.

Sir *Hubert Carr.*] Might I just add, with regard not only to water supplies, but deforestation, has led to such ruinous floods lower down that it is a matter which might deserve your attention.

Marquess of *Salisbury.*

6570. Is there no Federal authority in cases of that kind under the White Paper?—I should like to look into the specific case again; I am not quite clear whether it is covered, or whether it is not.

Sir *A. P. Patro.*

6571. In regard to Proposal 69, it is an analogy with Section 49, paragraph 2, of the present Act. Under the present Act the Governor has the sole power of making rules for the transaction of business with the Ministers as well as with his Counsellors. Now, under the new scheme, it is provided that he will be authorised, after consultation with his Ministers, to make at his discretion any rules which he regards as requisite to regulate the disposal of particular business and the procedure to be observed in the conduct of that business, and of the transmission to himself of all such information as he may direct. Now this is intended to bring the Ministers and the Governor in the closest relationship. At present we have experience, as a

matter of practical knowledge, that the rules that are made by the Governor are, first, what are known as the Business Rules, second, what are known as the Secretariat Rules. These rules are so inconvenient through the transfer of Departments, that oftentimes friction arose. Therefore, if these rules are made not by the Governor at his discretion or in mere consultation, would it not be in harmony with the working of the Cabinet and of the relations of the Governor with his Ministers, that these Business Rules should be prepared not merely in consultation and at his discretion but in agreement with the Ministers?—I would hope myself that in actual practice almost invariably they would be made with the agreement of the Ministers. Obviously, it is tremendously to the advantage both of the Government and the Ministers that they agree upon their rules of business. One must, however, contemplate a situation in which the Ministry might insist upon rules of business that would endanger the Governor's special responsibilities. It is on that account that whilst our desire and our intention is that there should be the closest co-operation between the Governor and the Ministers, we feel that the ultimate decision must be at the discretion of the Governor.

6572. In regard to the discharge of special responsibilities, there are various other provisions which secure to him the right of action, and in these rules, if any such provision has been made that he should be the sole authority in making the rules, then it will lead to practical difficulties in the working of the Cabinet, as we find to-day?—I should hope it would not lead to any more difficulty; it is so much to the advantage of both sides to work together in a case of this kind.

6573. Then the next part of this proposal is for the transmission to himself of all such information as he may direct. Does that contemplate that the Governor will have a special Secretariat of his own in addition to his Private Secretary?—No. The position is just as Sir Malcolm Hailey and I stated it, namely, that the Governor would have what staff he requires, and Sir Malcolm yesterday gave a general kind of estimate of the sort of staff that was contemplated.



6574. Is it then in regard to the proposals in 92 and 103 relating to the Governor's acts and ordinances, that I understand you are going further to consider the powers of the Governor? In view of the discussion that has been held here, do I understand that those matters will be further considered?—I would like Sir A. P. Patro to put a more precise question than that. That is a very general question.

6575. In regard to the Governor's Act, it has been said that the consultation with the Legislature leads to difficulties?—Yes. In that case, I said I would certainly take into account the views which have been expressed this morning.

6576. Then similarly, with regard to the power of ordinances and the discharge of special responsibilities, whether he should issue an ordinance without consulting the Governor-General: In regard to that matter also, I suppose further consideration will be given?—Yes. As far as I am concerned, the position is as I stated it a few minutes ago.

6577. Then the other question is with regard to the financial powers of the Governor, Proposal 100. "The provisions of paragraphs 95 to 99, inclusive, will apply with the necessary modifications, to proposals for the appropriation of Revenue to meet expenditure not included in the annual estimates which it may become necessary to incur during the course of the financial year." Now with regard to the modifications of these proposals, is it meant that these modifications will be in the devolution rules or the financial rules or will they be in-

corporated in the Constitution Act?—(Sir *Malcolm Hailey*.) The meaning of paragraph 100 is that if you have a supplementary Budget, the procedure will be the same as in the general annual Budget in regard to the demand of appropriation and the like.

6578. But the modified rules, as you say, will be the financial rules that will be included in the devolution rules?—I do not think we contemplate devolution rules.

Sir A. P. Patro.] You have got anyhow a financial Department in the Provinces?

Sir *Tej Bahadur Sapru*.

6579. There will be no occasion for devolution rules?—No; the White Paper itself says nothing as to a Finance Department. It does not lay down, as the present devolution rules do, that there must be a Finance Department, and it may have to be considered subsequently whether some mention of a Finance Department may not have to be introduced into the White Paper.

Sir A. P. Patro.

6580. That is what I wanted to know, whether it is not contemplated that the formation of a Finance Department in a Province is not absolutely necessary?—Yes; it is certainly a point that I think the Secretary of State has mentioned before in the discussion, but it will have to be considered as to how far special provision will have to be made in the Statute for a Finance Department.

(After a short adjournment.)

Sir N. N. Sircar.

6581. My Lord Chairman, may I ask the attention of the Secretary of State to certain possible but very specific dangers which have been indicated by questions of Lord Salisbury and some other Members of the Committee. If he kindly refers to Questions 5700 and 5704, the Secretary of State will find that Question 5700 deals with the situation when the responsible Minister has declined to carry out the wishes of the Governor, and Question 5704, Lord Salisbury's question, points out the fact that

the local Police and others will depend very largely upon the Minister. If he will read one more question, I shall put my questions on these three questions. In Question No. 5665, the danger of the Governor not being kept familiar with the events happening in his Province is pointed out. Bearing these three questions in mind, may I ask the Secretary of State whether it is not the correct position that so far as the superior officers are concerned, their pay, pension, promotion, posting, even a vote of censure on their conduct, are all beyond the competence of the Minister?—(Sir

*Samuel Hoare.*) Broadly speaking, that is the case.

6582. Having regard to Proposal No. 69, which enables the Governor to require that information of certain kinds will be transmitted to him, do you think that the Governor would have any difficulty whatsoever in getting very full and accurate information of events happening in the Province?—My definite view is that he would not, that under 69, he can obtain whatever information he requires.

6583. May I have your opinion as to whether the Governor's position under the White Paper scheme proposals, is not something like this: Taking a purely theoretical point of view, his powers are limited but when an emergency or when a case of special responsibility does arise, he can take whatever action he thinks fit. Is that the theory?—Yes.

6584. And of what constitutes an occasion of a special responsibility the White Paper makes it perfectly clear that he will be the sole judge. That is so, is it?—Yes.

6585. I am asking a specific question, because some questions were put to you, Secretary of State, as regards the Intelligence branch of the C. I. D., and so on. Supposing the White Paper proposals remain as they are, and you do not introduce specific provisions about either the Intelligence branch or the C.I.D., under the proposals will there be the slightest difficulty in the Governor taking charge either of the Intelligence branch or of the C.I.D., or of the C.I.D. plus the section of the Police, whatever may be necessary, for meeting a situation which has arisen?—It is certainly our intention that the Governor should have full powers in those respects. We think that under the White Paper proposals, he has been given those powers. If, when it comes to drafting final proposals, it is found that he has not got those powers, obviously, if the policy is maintained as set out now in the White Paper, a further definition will have to be given to make it quite clear that he has got those powers.

6586. In your opinion, under the White Paper proposals, will there be any difficulty in this: For instance, the Governor, having regard to an emergency situation, says: "I take over officers, A, L106RO

B and C; two divisions of Police; one Inspector-General," and so on. "I take them over and attach them to my special Department relating to special responsibility." Will there be either Constitutional or administrative difficulty?—So far as I know, there should not be, but our definite intention is that the Governor should have what powers are required and, if it is found in drafting that he has not got those powers under the proposals as they are now, there must be a change in the drafting of the proposals.

6587. May I be permitted to ask Sir Malcolm Hailey if there will be any administrative difficulty in the way of the suggestion that I have made? I am not asking on the Constitutional aspect?—(*Sir Malcolm Hailey.*) No. If the Governor took over that special branch, he would give his orders through, no doubt, his own Secretary to the Inspector-General of Police, who would convey them to the special branch in exactly the same way as he would convey orders from the local Government had the Governor not exercised his special responsibilities.

6588. I think a previous answer covers this, but may I ask you specifically: Under the White Paper proposal there will be nothing to prevent the Governor, if he thinks necessary, from saying that Police information relating to certain kinds of crimes should be accessible only to certain individuals?—(*Sir Samuel Hoare.*) That is so.

6589. I draw your attention to a question put by Sir Austen Chamberlain, Question No. 5746. There Sir Austen points out that it is undesirable to have recourse more often than is necessary to special responsibility and breakdown clauses. I am quite sure that the Secretary of State fully agrees with that view?—Yes, entirely.

6590. If that is so, what I am asking you is this: Under the White Paper scheme which defines the powers of the Governor in connection with special responsibilities in very wide language, is it not more suitable than providing specifically that the Governor will have charge of the special branch in this way: That if the Governor has confidence in the Minister, or if the Minister is willing to abide by necessary conventions, he may not bring into operation this section of

special responsibility at all. Is that not the better policy, rather than specifying section 74 as part of reserving the special responsibility of the Governor?—That has been our view in making almost all the proposals of this kind in the White Paper. We wish to assume that these were exceptional powers and that the best way to deal with them was to give the Governors general powers rather than to set out in explicit detail a list of the actual ways in which he was to carry them in effect. That is really the general reason that has prompted us to take the line we have.

6591. You were asked certain questions about breakdowns, for instance, beginning at Question 5718. I will ask you one question about it. There have been previous instances of breakdowns under the present Constitution, for instance, in Bengal in 1924 and 1925?—Yes.

6592. It was pointed out by one of the Members of the Committee that when those breakdowns took place, there was the nucleus of the Executive Council—the Executive Member was there?—Yes.

6593. We know that he will not be there when a breakdown takes place under the proposed Constitution?—Yes.

6594. But remembering that the officer of the Superior Service, the Secretarial staff and practically every officer of every Department will be available to the Governor, do you really think there will be any difficulty in the King's administration being carried on if there is a breakdown?—No, I do not think there should be.

6595. I want to ask you one question which has not yet been answered, about the Second Chamber. You may remember that Dr. Shafa'at Ahmad Khan asked you whether or not there was a resolution in the Bengal Legislative Council against the institution of Second Chambers, and you gave certain answers. What I am asking you is this: If you take the Resolutions of the Bengal Council as an index, is it not the fact that on the 2nd August, 1932, this Council by a Majority of 47 to 52, the majority including 8 Muhammadans, passed a Resolution against any communal or separate Muhammadan electorate. Would you say that that represents the true state of feeling in

Bengal, having regard to your other information that there is no demand for communal electoral representation for Muhammadans?

Dr. Shafa'at Ahmad Khan.] What was the proportion of those Muhammadans who voted for a separate electorate?

Sir N. N. Sircar.] The Resolution that was passed was against communal representation?

Mr. Zafrulla Khan.] My Lord Chairman, are we to go into these questions at this stage in connection with the Provincial Governments?

Sir N. N. Sircar.

6596. If I may put my question in this way: Are any of these resolutions, having regard to your other information, reliable as a safe guide for action?—I think we have got to pay great attention, of course, to the opinion of a Provincial Legislature, but I do not think we can necessarily bind ourselves to taking that as the exclusive or sole opinion that we have to take into account. Moreover, in the particular case of the voting upon the Bengal Second Chamber, I am inclined to think from the information that has come to me, that there was a good deal of misunderstanding in the voting to this extent that, at any rate, one of the communities was very nervous of the communal decision affecting the First Chamber being reversed in the Second Chamber. Now, quite obviously, a question of that kind can only be answered intelligently when it is known how the Second Chamber is going to be constituted, and without making any criticism of the Bengal Chamber or any of its Members, there is this fact that at the time the resolution was passed I do not think they knew the kind of way in which it was contemplated the Second Chambers should be formed.

6597. The last question is this: May I ask you generally, now that your attention has been drawn in your examination by so many members of the Committee to the possible dangers of the transfer of Law and Order, are you still definitely of opinion that those dangers are amply safeguarded by the provisions made in the White Paper?—Yes, I think so. I would never be too definite in giving an answer of that kind until I have heard the further

discussions of the Committee ; but, so far as the Government are concerned, we have done our utmost, assuming that Law and Order is going to be transferred, to ensure that the transference should take place in the safest possible conditions.

*Mr. Zafrulla Khan.*

6598. May I, with your permission, my Lord Chairman, put one question arising out of the last question but one put by Sir N. N. Sircar ? Sir Samuel, may I assume that a resolution passed in the local legislature with regard to the setting up one way or the other of a second chamber, would not be of any very great value unless the legislature knew more or less the kind of second chamber that was to be set up ?—Yes, I would certainly say that, and that was really the object of my giving the answer I gave just now.

6599. I put this question with reference to what I suggested myself the other day to you, that in considering this matter further you might look at this aspect, which was suggested by me, that if a resolution was passed by a local legislature, asking for the setting up of a second chamber of a certain kind and type specified by them, something might be done towards recognising the conditions that they might lay down. It rather emphasises the point I put to you yesterday, that if they were asked merely to limit themselves to the setting up of a second chamber and did not know what the type of it was to be, it would not be of very great help, and they would, possibly, be rather chary of committing themselves to that position ?—I think we must keep in mind Mr. Zafrulla Khan's contention. I think it is very germane to the point as to whether a resolution was anywhere passed or not with full knowledge of the conditions behind it.

*Chairman.*] That concludes the Section which we have called the "Provinces." The next Section is the "Federation," paragraphs 1 to 60.

*Marquess of Salisbury.*

6600. May I begin with the Proposal in paragraph 4, that is to say, the adhesion of the number of States which will make federation possible. This is

a very small question really, but there is a difference of language between Proposal 4 and paragraph 12 of the Introduction, because Proposal 4 speaks of a desire to accede of 50 per cent., which is held on the wording of Proposal 4 to be sufficient, whereas in the Introduction what is spoken of is that the Instrument of Accession should be formulated and accepted. I only wish to know which is the right one ?—We certainly mean that the Instrument of Accession should be formulated and accepted.

6601. I thought that was the answer. Then I go on to the first substantial question which I have to put : Who is to decide whether the terms of the Instrument of Accession are adequate ?—The Government.

6602. Which Government ?—The British Government in the first instance. Lord Salisbury will remember that we have suggested that provision must be made in the future for the Federation itself having some say in the conditions in which any new State would accede.

6603. I was going on to that next, but I wanted to get it quite clear that at the outset it is the Secretary of State who decides whether the terms are sufficient ?—Yes.

6604. Then may I go on to the second question : Hereafter when a State not hitherto having acceded proposes to accede, who will decide whether the terms are adequate ?—We have made no explicit proposal as to a particular period of time in the Proposals, but quite obviously we shall have to make the Proposals explicit in any Bill. Our conception of the state of affairs is that the Crown must be the judge in the initial stages, but that after that the Federation itself should have a say in the decision in some way or another.

6605. The Secretary of State means, that is to say, the Federal Government, not the Viceroy acting in his discretion ?—No ; I think Lord Salisbury will find that the Federal Government have a very direct interest, looking to the future, in questions of that kind. It might, for instance, be said that the entry of a particular State in the future was prejudicing the rights of existing members of the Federation, and I hold that in some way or other the view of the Federal Government and the Federal Legislature ought to have an influence,

whatever form it may take, in the decision which is then taken.

6606. I am very much obliged ; but that is rather an important answer. What kind of influence ? Does the Secretary of State contemplate a vote of the Federal Legislature ?—No, I have not gone so far as to work out the details. This, after all, is a situation not in the immediate future but in the somewhat distant future.

6607. Surely not ; it might begin in two or three months after Federation had started ?—No, I am not assuming that ; I am assuming that there must be a period during which the decision is with the Crown.

6608. A period even after Federation and the Central Government have started ?—Yes, I think there must be a period of some kind.

6609. You mean that after the Central Legislature and Constitution are in working order there might be an interval, say, of five years before any other State was allowed to join ?—No, not at all ; but the decision should for a period rest with the same authority that gave the decision for the entry of the States in the initial chapter.

6610. I beg your pardon ; I ought to have understood that. You mean that the same authority, the Secretary of State, still will control it ?—For that period, the chief reason in my mind being that one wants a period of stability for the initial chapter, and that therefore there had better be as few changes as possible in the first period of years.

6611. But at any rate there will be, or may be, an interval between the starting of the Central Constitution and the full number of State adhesions ?—What does Lord Salisbury mean exactly by “ the full number ” ?

6612. You begin, say, with 50 per cent. or a little over 50 per cent. ; there must be a certain period of years before anything like 100 per cent. join ?—It is very difficult to make an estimate or prophecy at all. I have had given me from the best possible sources very different views in answer to a question of that kind. One view which is very strongly held is that if 50 or 51 per cent. of the more important States join the Federation, the greater part of the

other States will join without much delay. That is a view which is very strongly held.

6613. But at any rate we must provide for the cases in which there would be an interval. The Secretary of State is, of course, aware that a great deal of attention has been paid to the intervening period, when only a relatively small number of States will have joined ?—Certainly.

6614. The adhesion of the States is contemplated, as I understand, as a standardising factor in the new Legislature ?—Certainly.

6615. Therefore in the absence of anything like a full adhesion of the States the balance of power would, as it were, be not final in the Legislature ?—I am not quite sure that I understand what Lord Salisbury means by “ not final ” ?

6616. It is clear, without going into the communal question, that it might be that the States which joined gave an undue power and majority to one particular religious connection in the Central Legislature. When I say “ undue ”, I mean undue having regard to what is contemplated as the complete establishment ?—I would not myself have thought that communal interests of that kind would enter so prominently into the question ; but if Lord Salisbury means by his question that in the interim period there ought to be interim arrangements made for the Princes' vote having effective power behind it, then I agree with him ; I think that on the whole arrangements of some kind ought to be made.

6617. The Secretary of State has very much shortened what I wanted to put, and I am obliged to him. Have the Government and the Secretary of State thought what form that interim arrangement ought to take ?—We have had before us a number of alternatives. I cannot say that we are altogether satisfied with any of them, but some of them seem to us to be more effective than others. For instance, it has been suggested that the Viceroy might by nomination fill up the vacant seats in the interim period ; secondly, it has been suggested that however many States may accede in the interim period, their voting strength would count as effectively as if there were 100 per cent. re-

presentation of the Princes; thirdly, it has been suggested that the acceding States should themselves be empowered to appoint additional representatives in the interim period. Of these three alternatives, I see great objection to the first, namely, the Viceroy nominating members to fill up the vacant places; it seems to me that nomination of that kind would not really be States representation at all, and I think it would be open to very grave misrepresentation in India, where a good many people would think that we were trying by that means to create an official *bloc*. The second alternative, namely, that the votes of the Princes who accede should be given weightage, namely, that one vote should count more than one in a division, I also dislike; it seems to me to be somewhat contrary to my own ideas as to voting in assemblies; and I therefore incline to the third of the proposals, namely, that the acceding States should be allowed to appoint, at any rate for a period, some additional members in order to ensure that their voting strength would be effective.

6618. Of course, if there were an undue predominance amongst the acceding States of a particular way of thinking, that would intensify that, would it not?—It would not correct it, I quite agree; but then Lord Salisbury is contemplating a situation that I am not contemplating. Here the States representatives can give a much better view than I can, but I do not myself believe that they will select their representatives upon a communal basis; I think they will think much more prominently of their own distinctive interests.

6619. I only gave the communal question as an example, but there might be a difference between inland States and maritime States. There are many differences, economic as well as religious; but, however, I take the hint of the Secretary of State: he has suggested that the Delegates representing the States are better judges of this than he is, and I had better perhaps leave the further points to them?—It must be remembered that we are assuming not a mere 50 per cent. of all the States, but 50 per cent. of the important States. Well, perhaps if I use the word "important," it implies that the other States are not important,

but I mean 50 per cent. of the States who have a right to separate representation in the Second Chamber; and I would have thought that, assuming that that number accedes, it will be a pretty representative body, and I think if they appoint additional Members they are not likely to weight one interest at the expense of another.

Archbishop of Canterbury.

6620. In order to save repetition later, would Lord Salisbury allow me to put a question: you said that the States already on the Council might have the right of nominating additional Members so as to secure their full voting influence in the Chamber?—I did not say "their full voting influence." I do not think it necessarily follows that the additional Members should represent the full 100 per cent.

6621. No, I follow that, but my question is a very simple one: you speak of a period during which this arrangement would be possible. That would not, I suppose, be a period of years, but until a larger number of States had come in?—Yes.

6622. Would it not be a little difficult if certain Members had been introduced upon your plan, and then as soon as one or two more States came in they should have to go out?—I think not only would it be a little difficult, but it would be very difficult; but all these proposals are very difficult, and the alternatives seem to me to be more difficult still. The alternative is an alternative under which the voting strength of the Princes is comparatively weak. Both from their point of view and from other points of view, we should like to avoid that contingency if we can.

Marquess of Reading.] Will the Secretary of State amplify that a little, if Lord Salisbury will allow me to ask him to do so now, and then we need not come back to this?

Chairman.] By all means.

Marquess of Reading.

6623. I only want to know this: supposing you have 51 per cent. of the States joining, and then they get a weightage, and afterwards other States join, have you in mind what is to happen then? Suppose, for example, you

have representation which would amount to 80 per cent. of the full representation of the Princes by the weightage which is suggested; if you get an accession of 20 per cent., have you anything in mind as to what is to happen then?—There would have to be an adjustment. We should come to some general decision that by this means the voting power of the States would be brought up to X percentage of their 100 per cent., and it would remain at that, whether new States came in or whether they did not, until sufficient States came in to get it above that percentage.

Viscount Burnham.

6624. May I ask the Secretary of State whether the system of weightage in favour of the bigger States which he proposes does not ensure a still greater and perhaps more unfair predominance of the bigger States over the smaller States?—I do not know what Lord Burnham means by "weightage in favour of the bigger States."

6625. Increasing the representation, as I understand the Secretary of State to suggest, of those States which enter immediately into accession; they are going to have extra representation?—It is not to be assumed that the smaller States will not come in at once.

6626. I thought that it was assumed that this was to supply the place of such States, presumably the smaller States, as do not come in?—I know, but I do not know why Lord Burnham says "presumably the smaller States"; I do not agree.

6627. I was only judging a little by the representation of States which I see opposite me here. They are mostly the bigger States?—The States can speak for themselves on questions of this kind; I am not assuming that it will be either the bigger States or the smaller States which will come in first. I think there will be some of both.

Mr. Y. Thombare.

6628. I think the smaller States will not be behind the larger States in joining the Federation?—Here is the representative of the smaller State of Sangli, who says that they will be anxious to come in behind the bigger States at once.

Mr. J. C. C. Davidson.] When Mr. Thombare uses the word "behind," does he mean in point of time?

Mr. Y. Thombare.

6629. I mean that they will not lag behind the larger States in joining the Federation; they will not delay?—If the smaller States think that the bigger States are getting an undue influence in the Federal Centre, then the remedy is for the smaller States to accede in greater numbers, and *vice versa*, the other way round.

Marquess of Salisbury.

6630. I was not thinking merely of the interests of the States, but of the interests of the Assembly, who will vote altogether, of course?—Yes, it is just because of that feeling, which is equally in my own mind, that I am suggesting these various methods of giving weightage until all the Princes accede.

Marquess of Reading.

6631. That would apply in both Houses, I suppose?—Yes, it would have to.

Sir A. P. Patro.

6632. Is there any precedent for such a weightage as is suggested in the White Paper?—There is not any precedent for this kind of Federation anywhere in the world.

Dr. B. R. Ambedkar.

6633. Does this system of weightage apply only when the Princes do not come up to the limit fixed in the White Paper, namely, 50 per cent.?—No, it is between the 50 per cent. and 100 per cent.

Marquess of Salisbury.

6634. Now may I take Proposal No. 11? That is the proposal which establishes the Reserved Departments. The question which I want to put to the Secretary of State, and the question which we have discussed, is, how far in point of fact will the Legislature be able to influence the decisions of the Viceroy in respect of the Reserved Departments?—I think I had better put

my answer into as concrete terms as I can. I imagine that the Department which is particularly in Lord Salisbury's mind is the Department of Defence?

6635. That is so?—For the Department of Defence, the Governor-General will be solely and exclusively responsible; there will be no divided responsibility of any kind. Assuming this sole and exclusive responsibility, the Governor-General will no doubt wish to carry with him as far as he can the Federal Government and the Federal Legislature. Obviously, it will be greatly to the advantage of the Governor-General to have public opinion behind him, expressed both through the Government and through the Legislature. That being so, we are anxious that he should take every possible opportunity of carrying his Ministers with him, of consulting them, so far as he can, about his general line of policy, and of obtaining from them, if he can, their support for any proposals, financial or otherwise, that he may think it his duty to make. Similarly with the Legislature, under the present state of affairs, the Legislature has no power for voting defence expenditure, but is given an opportunity of discussing defence expenditure. That opportunity we should continue to give to the Legislature. The further question then arises: What influence would public opinion exercise upon the Governor-General; what influence would it not exercise upon the Governor-General: would it exercise more influence than it does now, or the same kind of influence, or less influence? It is very difficult to give an explicit answer to a question of that kind. It may be argued that with the institution of a responsible Government at the Federal Centre and of a responsible Legislature, the pressure of public opinion will become stronger and stronger. Already, it is very strong; some would say that it would become stronger. On the other hand, I myself am inclined to think that, even if it may become stronger, it will, on the whole, become friendlier. I believe myself that, in the nature of things, there will be several Ministers, perhaps all of them, in the Federal Ministry, who will be very directly interested in keeping defence in India upon an effective basis. I believe myself

that their support will be extremely useful to the Viceroy when it comes to any discussion in the Federal Assembly. I believe myself that, in the discussions of the Federal Assembly, there will be found to be perhaps more support for the defence proposals of the Viceroy than could be found for them now in a comparatively irresponsible Assembly. My own view, therefore, is that the pressure of public opinion in the future will not develop upon the lines of embarrassing the Viceroy in his duties: I believe it may even strengthen him. Supposing, however, that the Federal Government and the Federal Legislature were opposed to his policy, his responsibility is sole, and we are giving him full powers to carry it into effect.

6636. Let us take the case which the Secretary of State has last put. Let us suppose that the proposals of the Governor-General were criticised in the Legislature; they would have power, I understand, of not only discussing it, but of passing Resolutions upon the subject?—They could not have a Resolution about a money vote.

6637. But they could pass a Resolution: "That in the opinion of this House, it is inexpedient", and so forth, to spend so much money on the defences?—So they can now, I suppose.

Mr. Rangaswami Iyenger.] They have done it.

Marquess of Salisbury.

6638. It does not make it any better that they have done it. I am asking whether they can do it?—Lord Salisbury will see that it does not make it any better, but it does not make it any worse.

6639. Let us suppose they did that, and let us suppose the Government voted with the majority in favour of the Resolution, criticising the Governor-General's defence policy, would not that put the Governor-General in a very difficult position?—I do not think it would any more than now when the Legislature might pass a similar Resolution.

6640. The Government would be voting against it?—To that extent, it might make the difference of opinion more serious.



6641. That is all I suggested to the Secretary of State, that it was more serious for him. I understand the Secretary of State agrees to that. It would be more serious for him, if his Government voted against him?—Yes, I think it would be; but, on the other hand, Lord Salisbury must keep in mind the alternative, namely, when the Legislature may be inclined to be against him and when he may have the support of the Government which would be of very great value to him in the Legislature.

6642. You think that the case is likely when the Legislature would be against him, but the Government in his favour?—Yes, I can believe that possible.

6643. Then the Government would be in a minority in the Chamber then?—It might be for that one purpose.

6644. It is not usual to have the Government in a minority; at least we have had it in this country, but it does not work very well?—I own it is very much better to have a majority, if you can have one.

Sir Akbar Hydari.] When the responsible Government is mentioned, it is the Government of the Transferred Subjects, but Defence is a Reserved Subject.

Marquess of Salisbury.] There will be under the White Paper only one Government in the Central Legislature representing, we presume, the majority there, but the Secretary of State contemplates a case when the majority will vote against the Government.

Lord Eustace Percy.

6645. May I ask the Secretary of State, as a supplementary question, whether he contemplates what I think Lord Salisbury is contemplating, namely, a Government which remains in office but refuses to introduce the Army Estimates into the Legislature? Because the situation that Lord Salisbury conceives can only happen in that event?—I think that is so. A Government can not refuse to provide the funds for Defence.

Marquess of Salisbury.

6646. As I understand, the Governor-General himself would then (I forget the

exact words) insert in the Estimates the sums of money required for his Defence Services?—Yes.

6647. That I understand to be the system?—Yes.

Marquess of Salisbury.] I do not understand quite what my noble friend's interruption was for?

Lord Eustace Percy.] My only point is that you would have to begin your supposition rather further back. You would have to assume that the Finance Minister refused to include the necessary Army expenditure in his Budget, and, clearly, there would be a very serious difference of opinion between the Governor-General and his Ministers before it ever came into the Legislative Assembly, in that event.

Marquess of Salisbury.

6648. It might even be the case which my noble friend has put. Of course, I am assuming, which is not a very rash assumption, that there is not very much money to go round, because it happens to be the case notoriously at this moment. Therefore, let us assume that the Finances are hard up, and, thereupon, the Minister representing the majority, and anxious for the money for very great domestic purposes, differs from the Governor-General as to the Defence expenditure, and let us assume that thereupon the majority of the Chamber passes a Resolution criticising the Defence expenditure which the Finance Minister votes for. Would not the Governor-General be in a very difficult position, in those circumstances?—He might certainly be in a difficult position, but his powers would be unimpaired. The Secretary of State and Parliament here would be behind him, and he could see that sufficient funds were forthcoming.

6649. But the Secretary of State said to us what I thought was so very true just now, that there would be a very strong motive on the part of the Governor-General, if he could, to keep on good terms with public opinion in these matters?—Yes, I think that is obvious, but I do not suggest by that that the Governor-General should fail to carry out one of his primary duties, namely, to ensure that there are sufficient funds for the Defence of India.

6650. You do not suggest it, but you would not think it at all extravagant that the Governor-General would go as far as he could to meet this feeling?—So he does now.

6651. He would have a strong temptation even to go a little further than perhaps he ought to?—I do not think so.

Marquess of *Zetland*.

6652. May I ask a question, with Lord Salisbury's permission? I have forgotten for the moment—is the Army expenditure votable?—No.

6653. Then surely this question could not arise. It is non-votable.

Marquess of *Salisbury*.] I know it is. I thought I had made it clear by asking questions of the Secretary of State whether it would not be possible, nevertheless, for the Legislature to pass a Resolution criticising the policy which led to it.

Viscount *Burnham*.] And the money for the Civil expenditure?

Marquess of *Zetland*.] But we were talking about the Army Expenditure.

Viscount *Burnham*.] I mean, for the Civil expenditure of the Army.

Witness.] Under the White Paper proposals, it is not.

6654. Then an alteration is made?—Yes, there are a great many.

Marquess of *Zetland*.] Under the White Paper, it is not.

Marquess of *Salisbury*.

6655. I have said quite enough. I am quite sure that the majority of the Assembly would have great influence over the Governor-General in respect of these reserved Departments?—Lord Salisbury is trying to make me say that I think the Governor-General will surrender to undue pressure from the Legislature. I do not think that at all.

6656. I am certainly not going to press the Secretary of State. I only wanted to get it quite clear. Let me pass for a moment to the analogous subject of the special responsibilities of the Governor-General. We have ascertained, I think, this morning how close the responsibility of the Governor-General is, in this matter, with the responsibility of the Governor.

What I suggest to the Secretary of State is that it is very important, from the Governor's point of view as well as from the Governor-General's point of view that the Governor-General should be able to act quite independently in respect of his special responsibilities?—I am not quite clear what Lord Salisbury means, by acting independently.

6657. In this case again, he might have to act under his special responsibilities in the face of a hostile majority of the Central Assembly?—Yes, certainly.

6658. And that might be formidable, not merely in respect of his own jurisdiction, but it might interfere very much with the jurisdiction of the Governors. We have already ascertained that the Governors would be subject to the Governor-General in this respect. Let me put a case of this kind: That in a particular Province there was a case in which the Governor thought it right to exercise his special responsibility; thereupon there is an agitation which springs up in the Centre to urge the Governor-General to refuse his consent to the Governor's action, and, in deference to that agitation, a majority of the Central Chamber votes that the Governor-General should not exercise his special responsibility in this matter. Do you not think that that would embarrass both the Governor-General and the Governor?—My answer is just the same as the answer I gave just now, namely: I am assuming that the Governor in the Province, and the Governor-General will carry out these responsibilities as we intend they should be carried out, without surrendering to pressure of that kind.

Lord *Irwin*.

6659. May I, with Lord Salisbury's permission, put one question to the Secretary of State on that? Would it not be the fact in such a case as Lord Salisbury has suggested of pressure being put upon the Governor-General to interfere with the exercise by the Governor of his special responsibility, that it would be open to the Governor-General to refuse to permit such a discussion being held in the Central Legislature, if he thought it was against the public interest, as indeed, he occasionally has to do at present?—Yes, that certainly is

so, and Lord Irwin will see the provision we have made for it under paragraph 52 on page 51, particularly (b) (2).

Marquess of Salisbury.

6660. I will take you, if I may, to a very much less difficult matter merely for the purpose of explanation. There is a curious phrase in paragraph 33 of the Introduction—it begins at the bottom of page 17. There are certain discretionary powers there of the Governor-General. At the top of page 18 it is said: "In this category of 'discretionary powers' the precise range of which it will be impossible exhaustively to foresee until the drafting of the Constitution Act has reached completion, His Majesty's Government anticipate that the following matters will be included." There is a sort of dubitative air about that paragraph; I am sure it can be easily explained, if the Secretary of State will explain what is contemplated, why there should be a doubt about the matter?—It simply is a drafting point. We are not quite sure whether we have made the list entirely exhaustive; there is nothing further in our minds.

6661. I am not going to press a drafting point for a moment, but there will be no doubt, for example, as to the power to withhold the assent from Bills or to reserve them for the signification of His Majesty's Pleasure?—No, certainly not. We regard those four categories (a) to (d) as certainly coming within the discretionary powers of the Governor-General. We have put in the words in the previous paragraph, in case the list is not exhaustive.

6662. Thank you very much; I only wanted to clear that up. Now I am not going over the ground which has been already covered about the Provinces. I suppose the answer of the Secretary of State about a Prime Minister or not would be the same as it was in the case of the Governor?—Yes.

6663. There is one little question under Proposal 38, the financial power of the Council of State. The Secretary of State will remember that the Witnesses who appeared on behalf of the Chamber of Princes desired that the Council of State should have equal powers with the Assembly in financial matters. I do not

know whether the Secretary of State has any observation to make upon that; I do not think he has had the opportunity of saying anything upon that yet?—Our proposals are based upon the general plan that the powers should be substantially equal. We arrived at this view because we were impressed by the considerations that were urged upon all three Round Table Conferences by the representative of the Princes, who made a great point, owing to the fact that their representation will be stronger in the Second Chamber, that the Chambers should be substantially co-equal in powers. We have tried, generally speaking, to carry that into effect. At the same time, when we come to finance, there is the practical difficulty in procedure of introducing grants for supply, and so on, in both Chambers, and we, therefore, suggest under our proposals that the grants should be introduced in the Lower House, and they can, if need be, be taken to the Upper House to give the Upper House an opportunity of voting upon them; but we did see grave practical difficulties in a system under which money grants could be introduced, perhaps, simultaneously in the two Houses.

6664. Does the Secretary of State say that the two Chambers will be, except for the case of initiating money grants, in exactly the same position?—Yes, the two Houses, all other respects, with this one reservation: In the case of supply, the Government must put it before the Upper House. It is the Government that takes the initiative.

6665. But the Upper House will be able to vote on supply?—Yes, in those conditions.

Marquess of Reading.

6666. May I ask one question? Secretary of State, would it inconvenience you to tell us what you have in mind by the term "Money Bills"?—But in a single word, taxation. That is really what we have got principally in mind. I would not like to be tied down to a definition exactly.

6667. Of course, there must be a limit upon the term "Money Bills," because of what you have just said about Supply?—Yes; that is essentially a matter for accurate draftsmanship later on.

Lord Rankeillour.

6668. You do not propose to take the definition of a "Money Bill" here?—I should like to look into that further, before I can give an answer.

Marquess of Salisbury.

6669. I am not, of course, going to ask you again in respect of Proposal 42. I suppose your answers with regard to the Governor-General will follow exactly the same line as on the Governor?—Yes.

6670. That is, as to the Governor-General's Acts?—Yes.

6671. Similarly, with regard to the Ordinance paragraphs, paragraphs 53 and 54?—Yes. May I add this sentence to the answer I have just given to Lord Salisbury? In the case of the Governor-General, the position will be easier in one respect than it is for the Provincial Governor, for this reason: The Governor-General will have the three Counsellors for his Reserved Departments, and those Counsellors can, of course, introduce measures of this kind upon his initiative in the Federal Legislature.

6672. Then you would be rather inclined to give a different answer in the case of the Governor-General than in the case of the Governor, would you?—No, the same answer, but adding to that answer the fact that the actual procedure is easier for the Governor-General than it is for the Governor owing to the Governor-General having three Counsellors whom he can instruct to introduce his measures in the Federal Legislature.

6673. Although that would deal with that particular point, there would still remain all Sir Tej Sapru's objections as to the difficulty of having submitted a Bill to the Assembly and it being rejected, everybody would be in a very difficult position?—Yes, I think those objections would substantially remain. At the same time, the main objection that was urged by Sir Austen Chamberlain this morning, namely, that there would be no machinery under which the Provincial Governor could carry out those duties, does not apply to the case of the Governor-General.

6674. That is quite true. Then as regards the Ordinances power under Proposal No. 53, may I ask why the power is limited to six months?—The reason is

that we assume that Ordinances will be for temporary purposes. At the same time, if the emergency continues it is possible for the Governor-General to renew the Ordinances. In that case he has to get a resolution of Parliament; but it is based upon the conception that Ordinances are temporary measures to meet a particular situation.

6675. The result of that is that if the Governor-General saw that legislation was absolutely essential he would have to act under Proposal 42; he could not act under Proposal 53?—He would then have to act by means of Governor-General's legislation.

6676. Supposing it were held by the Committee—though I have, of course, no reason to assume it—that this process of submitting a Bill to the Legislature and forcing it through was objectionable, then the Ordinances power by itself would not be sufficient, because it is limited to six months?—I think that might be so.

6677. In that case there would be a rather strong argument for removing the six months' limit?—Yes, or retaining the proposals which we have made for permanent legislation.

Marquess of Salisbury.] I was assuming that that was the hypothesis. Thank you very much. I think those are all the questions which I have to put.

Archbishop of Canterbury.

6678. I will trouble you with only one or two very general questions and one of detail. Is it in order to say a word about the inauguration of the Federal scheme at this stage, apart from its constitution?—I do not mind at all.

Chairman.

6679. That will come later?—I should have thought, my Lord Chairman, subject to what you say, that it did come into this general chapter of our discussions.

Archbishop of Canterbury.] It is a very simple question.

Chairman.] If you please.

Archbishop of Canterbury.

6680. You contemplate, before the Federal Constitution comes into being, the accession of the necessary number of

States and also sufficient financial provision and the coming into existence of the autonomous Provinces. I suppose you would consider that that condition had been satisfied when the autonomous Provinces had been created? You do not contemplate their being, as has been suggested, for some time under a period of probation?—I have never been able to see myself, apart from the controversy which has rather ranged round this subject, how a period of probation really helps you very much. It is so difficult to say what is meant by a period of probation, and whether you are to apply the same tests to all the Provinces and so on. It has always seemed to me that when you come to analyse it it is practically impossible.

6681. So that we may assume that what is contemplated in the White Paper is that so far as this precondition of the setting up of the Federal Constitution is concerned it is sufficient that the autonomous Provinces should be in being?—With the other conditions.

6682. Then one question on detail, which is a small matter, but I think it is very important that it should be on record; it may remove a great many misunderstandings: Will you be so good as to define as far as you can the exact range and scope of what is called Ecclesiastical Affairs as a Reserved Department?—Yes. What we intend to mean by the reservation of the Ecclesiastical Department is the reservation of the existing department, namely, the adequate provision of religious ministrations for the Army and the Services. We do not contemplate any further extensions of the Ecclesiastical Department. That, speaking generally, is the kind of department that we have in mind.

6683. So that in point of fact, though for good reasons a Reserved Department, it is a very small matter: it affects only religious provision practically to the troops, the Services, and in a few cases Europeans in certain places?—Yes. Indeed it is of such definitely limited scope that I have often wondered whether it is necessary to exclude it by name at all—whether it did not really come by implication within the field of the Services and the field of defence; but upon the whole I am convinced that it is better

to make an exclusion *nomination*; but it is exactly that kind of department that we have in mind.

*Mr. Morgan Jones.*

6684. May I ask whether it does in point of fact involve any ecclesiastical services for civilians who have no relation at all to the Services?—It is difficult for me offhand to give an answer to that question. I will look into it.

6685. I will ask it when my turn comes?—Generally speaking, subject to a few quite minor exceptions, the answer is that it is intended that this Department should be a Department for the Services and for the Army.

*Archbishop of Canterbury.*

6686. I may take it that the very last thing intended by the Government is any interference on the part of the Governor-General with the internal affairs of any religious community in India?—We have already got sufficient problems with religious communities in India to make it quite certain that we do not want to add to their number, your Grace.

6687. I think that may be taken for granted. Only one more question. You will forgive my ignorance; it may be shared by some who have not had the advantage of Indian administration. Are there any powers now in the possession of the Viceroy analogous to those which are given in the Reserved Departments and the Special Responsibilities?—Yes, at present the Viceroy has full powers over the whole field.

6688. Yes, they are absolute; but in certain matters which would come under Reserved Departments or Special Responsibilities has he not to bring them nominally before the Legislature?—No. He has, of course, to carry his Executive Council with him, but then His Grace will remember that his Council are all nominated and are most of them officials.

6689. In spite of that would you say that in your view the Central Government as constituted by these proposals was as strong as, or perhaps even stronger than, the existing Central Government?—I do not think I could give an answer to a question of that kind;

so many considerations enter into it, and indeed so many factors. From one point of view, it might be urged that the Government was becoming weaker because to a certain extent it was less highly centralised under one single authority ; on the other hand it might be urged that it had become stronger because it would very likely obtain behind it greater support of public opinion, and it would be brought perhaps into closer sympathy with the elected Assembly. It is very difficult to weigh up one consideration of that kind against another. My own view, however, is that the kind of Government that we are contemplating under the White Paper will be a strong and effective Government. I think I would prefer not to go further than that.

6690. But assuming the creation of autonomous and more or less responsible Provinces, in the face of them the existing Government, strong as it may be now, would be much weaker than it is now ?—I think that is a factor which has got to be taken into account. Obviously with the institution of autonomous Provinces the scope of the Central Government will be considerably narrowed, and in addition to that there will be the further fact that the Central Government will be faced with these presumably strong representative Governments and Assemblies in the Provinces, presumably also with a good deal of public opinion behind them.

Archbishop of *Canterbury*.] Thank you. That is all I wish to ask you

*(The Witnesses are directed to withdraw.)*

Ordered : That the Committee be adjourned to Tuesday, 18th July, 10.30 o'clock.

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18th July 1933.

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Present :

The MARQUESS of LINLITHGOW in the Chair.

Lord Archbishop of Canterbury.  
 Lord Chancellor.  
 Marquess of Salisbury.  
 Marquess of Zetland.  
 Marquess of Reading.  
 Earl of Derby.  
 Earl Peel.  
 Viscount Burnham.  
 Lord Ker (Marquess of Lothian).  
 Lord Hardinge of Penshurst.  
 Lord Irwin.  
 Lord Snell.  
 Lord Rankeillour.  
 Lord Hutchison of Montrose.

Major Attlee.  
 Mr. Butler.  
 Major Cadogan.  
 Sir Austen Chamberlain.  
 Mr. Cocks.  
 Sir Reginald Craddock.  
 Mr. Davidson.  
 Mr. Isaac Foot.  
 Sir Samuel Hoare.  
 Mr. Morgan Jones.  
 Sir Joseph Nall.  
 Lord Eustace Percy.  
 Miss Pickford.

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The following Indian Delegates were also present :—

INDIAN STATES REPRESENTATIVES.

Rao Bahadur Sir Krishnama Chari.  
 Nawab Sir Liaquat Hayat-Khan.  
 Sir Akbar Hydari.  
 Sir Mirza M. Ismail.

Sir Manubhai N. Mehta.  
 Sir P. Pattani.  
 Mr. Y. Thombare.

## BRITISH INDIAN REPRESENTATIVES.

His Highness the Aga Khan.  
 Sir C. P. Ramaswami Aiyar.  
 Dr. B. R. Ambedkar.  
 Sir Hubert Carr.  
 Mr. A. H. Ghuznavi.  
 Lt.-Col. Sir H. Gidney.  
 Sir Hari Singh Gour.  
 Mr. Rangaswami Iyenger.  
 Mr. M. R. Jayaker.  
 Mr. N. M. Joshi.

Begum Shah Nawaz.  
 Sir A. P. Patro.  
 Sir Abdur Rahim.  
 Sir Tej Bahadur Sapru.  
 Sir Phiroze Sethna.  
 Dr. Shafa' at Ahmad Khan.  
 Sardar Buta Singh.  
 Sir N. N. Sircar.  
 Sir Purshotamdas Thakurdas.  
 Mr. Zafrulla Khan.

The Right Hon. Sir SAMUEL HOARE, Bt. G.B.E., C.M.G., M.P., Sir MALCOLM HAILEY, G.C.S.I., G.C.I.E., and Sir FINDLATER STEWART, K.C.B., K.C.I.E., C.S.I., are further examined.

*Marquess of Reading.*

6690. Secretary of State, I have a very few matters upon which I want to ask you questions, but will you direct your mind to paragraph 103, only because of its relation to the Governor-General?—I am drawing the distinction between the powers of ordinance in paragraphs 103 and 104, pages 64 and 65, and especially now in reference to the powers of the Governor-General. I just want to draw your attention to those matters. Hitherto, the practice and the law has been that when an Ordinance had to be issued, it was issued by the Governor-General; there was no power in the Governor to issue it. That is the law at present. That is right, is it not?—Yes.

6691. What has happened is that when a Governor required an Ordinance, he communicated with the Governor-General, and if the Governor-General thought right, the Governor-General issued the Ordinance in accordance with the desire of the Governor, varying it as the Governor-General thought necessary, which would then take effect in the Governor's Province?—Yes.

6692. I have in mind, for example, only as an instance when there was the rebellion in Malabar. I think Sir Malcolm Hailey and Sir Tej Bahadur Sapru were both then in the Viceroy's Executive Council; I was Viceroy; and then Ordinances had to be issued proclaiming martial law in different parts with certain conditions which were attached to it. That was done by the Governor-General at the request, of course, in the

first instance, of the Governor of Madras. The only reason of my calling your attention to this is for the purpose of showing that there has been no difficulty in dealing with matters of that character hitherto, notwithstanding that the Governor has not had the power to issue an Ordinance. The point I am trying to make to you is that where the necessity has arisen, the Governor-General has issued the Ordinance for the Governor's Province and the Governor has not suffered by that; he has been able to get the benefit of the Ordinance without issuing it himself. That has been the law, and the practice, up to the present moment, and is still the law and practice. That is right, is it not?—Yes.

6693. Now what I want to ask you to consider in relation to this matter, and certainly I am not pressing you for a final opinion at the moment, is, do you see any real advantage to be gained by giving the power to the Governor to issue an Ordinance, even though it may be only after consultation with the Governor-General?—I just want to put one or two matters to you for your consideration. If the Governor requires an Ordinance, it would be open to him to apply to the Governor-General as he has done hitherto, would it not?—Yes.

6694. If the Governor issues an Ordinance on his own initiative, even though it may be after consultation with the Governor-General, that places him, as I suggest to you, in more direct opposition to his Legislature and to his Ministers than if the Ordinance is issued by the

Governor-General for application to the Province. Does not that follow?—I am not sure that I would agree with that deduction. I would have thought, if it were true, it would be equally true to say that a more acute difference would arise if the difference was a prominent difference between the Governor-General outside and the Province, the Province being responsible for its own Law and Order. I would have thought it would have made the cleavage of opinion more marked.

6695. You always have to bear in mind, do you not, that the Governor-General is ultimately the person responsible, so that whatever happens, he is responsible?—It would be known that the Governor could not issue the Ordinance without the assent of the Governor-General, or, that if he did, it would be in the Governor-General's power to order him to cancel it?—Yes. I am afraid I really have not got anything to add to what I said the other day, namely, that I do not think this is a great question of principle, but it is a question upon which there are legitimate differences of opinion. Upon the whole, I have come to the view that Law and Order being a Provincial subject, it was more appropriate for the Provincial Governor to be given an Ordinance making power.

6696. I do not want to keep up the argument at this stage, because we get no further in it. All I want to direct attention to is these points, so that they may be considered when the matter comes up again for the decision of the Committee?—Certainly.

6697. The point being as I have followed it—I do not know whether I am quite correct—I rather understood that there was an objection on behalf of the Indian Delegates to the power of the Governor to issue an Ordinance under paragraph 103?—I should be very much surprised if there were not differences of opinion amongst the Indian Delegates upon this point, just as there are amongst the British Members of the Committee. It is one of those cases in which I think there is a field for legitimate differences, and it is obviously a matter, as Lord Reading suggests, that we must take into close consideration. Upon the whole, weighing one thing with

another, I think it is better that the Provincial Governor should have this power.

6698. Subject, of course, to the Governor-General?—Yes; that always is assumed.

6699. And subject to consultation with the Governor-General?—Yes, certainly.

6700. And with the consequence, of course, that whatever is done by him must be known to be under the direction or with the assent of the Governor-General. That follows, does it not?—I did deal at some length with all these points the other day, and I would prefer not to add anything to what I said then. I did give answers to almost all these points the other day.

6701. That means that I am putting this to you because of what you said the other day?—Yes; I am perfectly ready to answer any question Lord Reading asks me; but this was a question we did discuss at very great length when we were dealing with the Provinces. I told him that it is a ground upon which there is a justification for legitimate difference of opinion. Upon the whole, I take one view. Apparently, on the whole, he takes a different view.

6702. I prefaced the observation by saying to the Secretary of State that what I wanted him to do was to consider these points, because I understood from him that he was going to consider the whole matter. My sole purpose was to get definitely to him and definitely to the Committee the points for their consideration. I do not want to press it further than I have already done, but I do want to get into the minds of Members of the Committee that there are those matters to be considered. However, there we will leave it. Now, there was one other matter which I wanted to call attention to simply for the purpose of trying to understand it. I gathered from the Secretary of State that in regard to paragraph 4 on page 39, in dealing with the numbers of Rulers of States who would have acceded to the Federation he was considering the question of introducing some system by which there would be weightage. You remember the point?—Yes.

6703. What I want to call your attention to is that you said something like



80 per cent. of the total amount ; but, whatever it was, you said that there would be a weightage which would bring up the votes of the Princes, not to the full percentage but to something less than that. I am not sure that 80 per cent. was actually mentioned, although it did arise in the course of the discussion. I only want to ask you one question upon that, because I understood you were considering it and were going to put it before us at a later stage. Why do you draw a distinction between the 100 seats and the 80 per cent.? That is what puzzles me. There are 100 seats, for example, in the Upper Chamber of the 250. Supposing only 50 of the Princes join then only 50 of those seats in the Upper Chamber would be allotted to the Princes, and then there would be 50 for which there would be no representation. I understood you to say that you were considering that, and you were considering the weightage of these Princes which would bring it up to something like 80 per cent. All I wanted to know from you (I just want to understand) is why do you stop at the 80 per cent. of the full numbers. Is there anything in your mind with regard to it?—I have never mentioned any percentage. I never mentioned 80 per cent. the other day. What I did say was that it seemed to me they ought to have some weightage, but not up to the full amount of the 100 per cent.

6704. That is right?—The problem is this : From the State's point of view, and from other points of view as well, it is important that the State vote should have adequate strength behind it. Moreover, it seems to me to be more likely for the other Princes to accede who have not acceded at once if they see that their vote in the Chamber is already carrying adequate weight. When, however, Lord Reading asks me why, that being so, we do not suggest giving the vote its full weightage at once, my answer is that I think that is going too far. I think what one wants to do is to ensure that the Princes who accede will have an adequate vote for making their point of view felt, and for ensuring that they are not swamped by a great majority of votes against them. But I do not think it would be necessary to give the full weightage. I should like to leave some

inducement, at any rate, to the Princes to get the full number of States into the Federal Chamber, and into the Federal Government. On the whole, therefore, I think that some weightage would be reasonable, but a weightage not up to the 100 per cent. I am, however, fully aware of the great difficulties and complexities of this question. What I want to do is to make some kind of reasonable arrangement that I hope will last only for a short time, because I am assuming the 100 per cent. of Princes will come in without undue delay under circumstances in which the Princes will feel that they have got a fair deal, and in which British India will also feel that the Princes have got a not unreasonable arrangement.

Marquess of *Reading*.] That is all I want to put.

Marquess of *Lothian*.

6705. Secretary of State, I think it is a characteristic of all Federations that there should be internal free trade. I notice that in Appendix VI, which puts forward the exclusively Federal powers, No. 34 gives exclusively to the Federation "the regulation of the import and export of commodities across the customs frontiers of the Federation, including the imposition and administration of duties thereon." In the exclusively Provincial there is no power to put provincial duties on. Could you tell us what your view is about some limitation being placed on the States, placing customs duties as against the rest of India. I do not include in that States which are already putting on customs duties, because some special arrangement may be made about them, but do you think it would be important that States acceding to the Federation should surrender the power of adding to existing customs duties or imposing new tariffs?—I certainly agree with Lord Lothian that there should be this internal free trade under the Federation, whether it be between one Province and another, or whether it be between one Indian State and another. Lord Lothian will, however, remember that there are treaties with certain of the States that do affect the question of internal free trade. What, however, I can say to him is this, that it would be our desire that

there should be this free trade, and that in the Instruments of Accession we should have constantly to keep this point in mind. Whether there may or may not be exceptions in particular cases must depend on the treaties with the States, and also upon the further fact whether in particular conditions it is worth having a particular State in the Federation at all. I am not thinking of any actual case. I am thinking rather of an imaginary case, but suppose the case in which a State under its existing treaties could impose duties upon imports from British India, and the State offered to join the Federation, and we came to the conclusion that the entry of a State in conditions of that kind would really impinge upon the system of Federation; that, I imagine, would be a case in which we would refuse the application of the State in those conditions; but, speaking generally, we should wish to see as wide an area of free trade within India as we could possibly obtain.

6706. And that should take the form through the Treaties of Accession, or through the Constitution, that no infringements should be made in the future. You may have to make some exceptions under the existing Treaties, but it should be a principle that the alteration of tariffs, or the addition of fresh tariffs, should be impossible?—It appears to me to be difficult to generalise. Our desire is the same, but I would prefer not to give an explicit answer to a question of that kind, having regard to the complexities of these various Treaties of Accession, but our general desire would be to carry out what I feel quite sure Lord Lothian himself wishes.

6707. May I turn to Proposal 41, and the equivalent one under the Governor's Provinces which deals with the Joint Session?—Yes.

6708. It provides that the Governor-General may authorise a Joint Session at any time after three months. I have always felt that there were very grave objections to the immediate or frequent use of the Joint Session for two reasons: One is that where there is quite clearly a majority in a Joint Session, and it becomes clear that the matter will be referred to the Joint Session at an early date it nullifies and

destroys the Debates in both the other Houses. Everybody is considering what is going to happen when the Joint Session takes place. That is, I think, a grave danger to the authority and the prestige of both the Houses. The second is, in my view at any rate, the main function of the Second Chamber is revision and delay, and the Joint Session may nullify delay almost altogether. I am wondering if the Secretary of State could give us the reasons why he has adopted the method of an early Joint Session in preference to the principle which is embodied in the Parliament Act which is that there should be a power of delay, say, for two or three Sessions after which the will of the Lower House prevails. It does give to the Second Chamber the very formidable powers of revision and delay?—The assumption here is that the two Chambers have substantially equal powers. I do not think there is anything irrevocable in the three months. I would like to hear suggestions about it. No doubt there is a great deal in the argument Lord Lothian has just urged. At the same time there is something in the other argument that the sooner you can get a dispute settled between the two Houses the better. I think this is essentially a question upon which we should like to gather the opinions of the Committee.

Marquess of Lothian.] May I now turn to another point? We can discuss these things later. I want to turn now to the provisions under Proposals 28, 31 and 32 for casual vacancies. The question which really arises there is, how far the Princes are to have the power to send and withdraw members of the Legislature absolutely at their will. I imagine that under the ordinary Legislature there is a definite writ of appointment which confers upon the member membership of the Legislature for the duration of the Parliament, and in the ordinary course there are only three ways in which that membership can be terminated: one is by death; the other is by resignation; and the other is by making infringements of the disqualifications which are mentioned in Proposal 34. It has always seemed to me, if the Legislature is to function properly, it is important that the members should be members for the duration of the Parliament.

*Chairman.*] Lord Lothian will perhaps have in mind that the Committee thought it well to reserve Proposals 26 to 37 and that they should be dealt with along with the Franchise and the Legislature.

*Marquess of Lothian.*] If that is so I will ask that question later. That is all I want to ask now.

*Marquess of Zetland.*

6709. My Lord Chairman, I am doubtful myself of the wisdom of the procedure which is proposed for securing what are called the Governor-General's Acts, but if Sir Samuel Hoare thinks that he has covered that question sufficiently when dealing with the kindred case of Governor's Acts in the Provinces, I will not pursue that here. I understand you thought you had really covered that ground?—I thought I had, but I may be wrong.

6710. I will not pursue that. There is only one question I want to ask the Secretary of State, apart from that, and that is this: To what extent will the powers of the Federal Legislature in connection with currency legislation be restricted by the powers which it is proposed to give to the Reserve Bank? The Reserve Bank is to be entrusted with the management of currency and exchange. Would that prevent the Federal Legislature from introducing, say, a Rupee Ratio Bill?—I would prefer, if Lord Zetland would agree, to deal with questions of this kind when we come to discuss the details of the Reserve Bank. There is a Committee at present sitting, and I should hope the Committee will end its deliberations in the course of quite the next few days. I was assuming that when we came to the question of finance, the subject of the Reserve Bank would probably play a prominent part, and that is one of the questions that I feel sure, from my experience of the past, will undoubtedly be raised.

*Marquess of Zetland.*] Very well. I have no more questions.

*Lord Rankeillour.*

6711. Secretary of State, with regard to your consideration of questions of joint sessions and the like, I trust you will not commit yourself to anything

that might prejudice your position with regard to Constitutional Reform in this country?—That is one of my constant troubles. I have always to be looking out of two sides of my head at once.

6712. Quite. The chief ruler in India in his relation to the acceding States will have a dual personality, will he not: as Viceroy and as Governor-General?—Yes.

6713. It would be fair to say, without any vulgar implication, that he will have to lead a double life?—We all have to do that.

6714. I trust not, in the common saying, in the usual sense of the term. In his relation to the extent of the powers that they surrender, the proportions of his divisible personality will be different?—I do not quite follow that anatomical metaphor.

6715. I mean to say, if a State surrenders a small extent of its powers, he might be one-fourth a Governor-General and three-fourths a Viceroy. If the State surrendered half its powers he would be half a Viceroy and half a Governor-General. If the State did not accede he would be a totalitarian Viceroy?—I should like to hear the end of Lord Rankeillour's questions before I attempt to deal with that one.

6716. At any rate, his relations, in one case as Viceroy, would be larger and take a greater scope than in another, according to the terms of accession?—You mean after the accession?

6717. Yes?—Yes, that would be so.

*Sir Austen Chamberlain.*

6718. Is that answer quite correct, Secretary of State? The powers that remain are the powers of paramountcy?—Yes, that is perfectly true, but I think, unless I misunderstood Lord Rankeillour, what he meant was this: One State might surrender such restricted powers to the Federation that the Prince's relations would be almost exclusively in the future with the Viceroy in the field of paramountcy.

*Lord Rankeillour.*

6719. Yes?—Whereas, another State might surrender wider powers to the Federal Government, and to that extent the Prince's relations would be

more extensive with the Federal Government than in the case of the other Prince and more restricted to that extent in the field of paramountcy. Have I made my point clear?

Sir Austen Chamberlain.] Yes, I understand the point, but I cannot see that in practice it will really work out so.

Lord Eustace Percy.

6720. Surely, in fact, what the State can concede to the Federation are the powers which are at present moment independent of paramountcy, or limited paramountcy. The State cannot concede to the Federation any part of the paramountcy of the Crown over the State?—That is perfectly true, but in practice the surrender of powers to the Federal Government must to that extent limit the application of paramountcy. I quite agree that over and above everything is the paramount field, but surely that is the case.

6721. I do not see how a State, by surrendering independent powers which it has to the Federation—powers which, therefore, must be limitations on the paramountcy of the Crown—can affect the scope of the paramountcy of the Crown, but it is a question of abstruse constitutional law, into which I do not think I can follow you?—I am not sure whether my answer is technically correct or not, but whether it is or not I do not quite see its application to these constitutional questions.

Marquess of Reading.

6722. The position exists now, does it not?—Yes, certainly.

Marquess of Reading.] There is the difference between what the Viceroy does as the representative of the King-Emperor and what he does as Governor-General.

Lord Rankeillour.] I do not want to put it further than this. Different States will give over different powers, and to the extent to which they vary the relations of the chief ruler, whether as Viceroy or as Governor-General, will be different.

Sir Akbar Hydari.

6723. Is it not that the difference will be within very narrow limits because

the Crown will see, before it allows any State to concede, that it concedes the minimum quantum of its powers to the Federation?—Certainly.

6724. So that the variation will be very little between different States so far as the amount of power that they concede is concerned?—Certainly.

6725. With regard to the other question which was put by Lord Eustace Percy, is it not that there are certain powers in what will be in future the Federal field which are at present exercised in Indian States by virtue of paramountcy which, however, could not be transferred to Federation responsible to a Legislature, without the Crown transferring that portion with the consent of the State, and to that extent it will be the transfer of really certain paramountcy powers and not purely State powers?—Through the Crown?

6726. Through the Crown?—Yes; that is so.

Mr. M. R. Jayaker.

6727. Does the Secretary of State include in the word "paramountcy" all those powers of the State which are not transferred to the Federal field, or does he put a more limited interpretation on the word "paramountcy"? Have I made my question clear?—Just repeat it, will you, please.

Mr. M. R. Jayaker.] Do you include in the word "paramountcy" all those powers of Indian States which they possess at the present moment which are not transferred to the Federal field and to the Federal Government?

Rao Bahadur Sir Krishnam Chari.] Do you mean the powers of the Indian States or the powers over the Indian States?

Mr. M. R. Jayaker.] The powers of the Indian States.

Rao Bahadur Sir Krishnama Chari.] Which the Indian States exercise.

Mr. M. R. Jayaker.

6728. Yes. Have I made my question clear?—This is a very technical field, and I think I would like to consider my answer to Mr. Jayaker's question. I will take note of it, and I will either give the Committee or send my answer

when I have thought it over, but off-hand, in these very technical legal and Constitutional questions, I would prefer to think about the answer.

*Sir Hari Singh Gour.*] In connection with what fell from *Sir Akbar Hydari*, to which the Secretary of State either expressly or impliedly gave his assent, *Sir Akbar Hydari* said that with regard to the domain of paramountcy, when the Crown transfers its paramount power with the consent of the States, a certain result would follow. Does the Secretary of State imply that the Crown cannot transfer any of its paramount powers except with the assent of the States?

*Sir Akbar Hydari.*] To the Federation.

*Sir Hari Singh Gour.*] To anybody. The right of the Crown to transfer the power is unconditional and unqualified.

*Witness.*] It may be unqualified, but, at the same time, there has never been any question of the Crown acting in that way under these Federal proposals without the agreement of the State.

*Sir Tej Bahadur Sapru.*

-6729. My Lord Chairman, may I, to clear up one point, put one question on this to *Sir Samuel Hoare*? *Sir Samuel*, is it not the position that to the extent to which certain powers are surrendered or delegated by the Indian States to the Federation, to that extent paramountcy ceases? Supposing an Indian State federates in regard to 40 subjects out of 49, then I take it that the Crown will not be able to exercise any power of paramountcy over those 40 subjects, the complete powers having been transferred to the Federation?—That is so; the transfer has been made with the consent of the Crown and the States concerned.

*Sir C. P. Ramaswami Aiyar.*

6730. May I just put one question? Is it not a fact that at the present moment the relations of the Viceroy with an Indian State cover practically all the relations that appertain to the State's relations outside itself? In other words, does not the Viceroy exercise the totality of what you would call the foreign relations of a State at the present moment?

*Chairman.*

6731. I would suggest that the Committee and the Delegation should reserve this matter until we see what the Secretary of State puts into his considered answer which he has undertaken to give. We will refer to that later?—I can answer that question in a sentence. The Governor-General-in-Council, under present conditions.

*Lord Rankeillour.*

6732. Might I just call your attention to No. 23 of the Introduction? It reads: "Although the Reserved Departments will be administered by the Governor-General on his sole responsibility, it would be impossible in practice for the Governor-General to conduct the affairs of these Departments in isolation from the other activities of his Government." Would it not really be in practice the same with regard to State affairs? Could the Governor-General, as Governor-General, keep to his position as to State affairs and not take counsel with his Government in his capacity as Viceroy occasionally?—I think, certainly so; I think he could.

6733. But there would be a number of things in which a State had given its powers over in which, obviously, the Governor-General as the head of the Federation and his Government would be concerned, but, surely, they might be impinged upon by things that were happening in the States at the same time, which would necessarily have to be taken account of?—The Viceroy must be the sole judge.

6734. But in practice, would it not be exceedingly difficult not to take his Government into consultation in those matters?—The Government, it will be remembered, will be composed of representatives both of British-India and the Indian States.

6735. But, perhaps, I might ask you to look at the bottom of page 15; it says there: "It may be, however, that measures are proposed by the Federal Government, acting within its Constitutional rights in relation to a Federal subject, or in relation to a subject not directly affecting the States at all, which, if pursued to a conclusion, would affect prejudicially rights of a State in

relation to which that State had transferred no jurisdiction. Or, again, policies might be proposed or events arise in a Province which would tend to prejudice the rights of a neighbouring State." Would it not in practice happen that the proceedings of a State in its independent capacity would react upon the Indian Legislature and Government, and that, therefore, they would have to take account of them?—No, I do not think necessarily so. There, as Lord Rankeillour said at the beginning of his questions, is the Viceroy in his two capacities: the Viceroy in his relation to the States in the field of paramountcy, and Governor-General of the Indian Federation. He must judge. Speaking, however, generally, we have always assumed that the Federal Government and the Federal Legislature would not interfere in the field of paramountcy at all.

6736. But questions might arise, for instance, questions of extradition, possibly, which might excite keen feeling in British-India. Would not that react on the Legislature and the Government?—It is very difficult to deal with hypothetical cases of that kind.

6737. There have been occasionally drastic interventions by the paramount power in the case of individual States, and that also might excite considerable feeling in British-India?—It is conceivable that it might, but, speaking generally, the clearer the distinction between the field of paramountcy and the field of Federal Government, the better, I believe, it will be for everybody.

6738. But do you not think it is possible that this sort of thing might happen: It might be intimated to the Governor-General that things would go easier in the Legislature if the Viceroy took a different line with regard to some particular State?—Then he must use his discretion.

6739. But whether he uses his discretion rightly or not, there undoubtedly would and could be pressure, even to the point of the resignation of the Government?—I do not think so.

Marquess of Salisbury.

6740. Why does the Secretary of State say he does not think so? It is obviously

possible?—I cannot picture to myself the case upon which a situation of that kind is going to arise.

6741. Pressure in discussion upon the Governor-General which impinges upon the domain of the Viceroy?—But discussion of that kind is barred from the Legislature.

6742. Is it absolutely barred?—Subject to one exception. If Lord Salisbury will look at page 51, paragraph 52, he will see that discussion of that kind is barred without the Viceroy's previous sanction.

Lord Rankeillour.] I was just coming to paragraph 52—that is paragraph 52 (b) (i), a little way down page 51, in matters connected with any Indian State, apparently, the discussion is barred, but supposing the matter was just as much connected with British-India as a whole or with one Province, would the discussion then be barred? Does this mean matters solely connected with an Indian State? If some Frontier question or some question of smuggling of arms came on that affected the Province as much as the State, would discussion be barred?

Viscount Burnham.

6743. Take the recent case of Kashmir?—What about it there?

6744. The excitement that there was on the part of the Muslim population, whether justified or not I am not entering upon, but the excitement there was in British-India in the disturbances in Kashmir?—The movement of British subjects into Kashmir, that would be a question, I assume, for discussion, and intervention, if necessary, but I do not see the other side of the picture.

Lord Rankeillour.

6745. What I mean is, if it was connected with any Indian State, would the Speaker have to rule that out, however much the matter may equally be connected with the Federation or with a Province?—It would have to depend upon the Rules of Business. The Rules of Business would have to make it quite clear that, on the one hand, the internal affairs of the States could not be discussed, and, on the other hand, the interests of British-India or of a particular Province of British-India could be discussed.

6746. It would be very difficult not, perhaps, to dwell upon the bad Government in the State that had allowed these things to happen, would it not?—I do not think so.

6747. Would it not be very difficult for the Speaker to draw the line?—It is just the same problem that we have to face now.

6748. And it is very difficult for the Speaker to have to draw the line?—It may be difficult, but I do not think it is insurmountable.

Earl of *Derby*.] He does it.

Lord *Rankeillour*.

6749. It would be far more complicated in this matter. Do you not think, speaking generally, there is a danger, as in Germany, that there would be a steady attempt at encroachment by the Federal Government on the positions of the Indian States?—I think in the future there is likely to be a much greater encroachment if the Government continues in which the representatives of the States do not take a part.

6750. You recognise there is a danger; and in Germany it has been pursued to a great length?—There is a danger in every course, but the danger is, I think, greater, looking to the future, for the States left outside in an isolated position, and with the constant risk of encroachment from British-India without themselves being represented in the All-India Government or in the All-India Legislature.

6751. I quite see that, but there is a danger. Now I think you said that there was no example of the kind of Federation that is now contemplated. I suppose you meant of States coming in with different powers—greater or less powers?—I did not mean only that, but I did mean generally that the conditions in India are very different from the conditions in any other Federation in the world.

6752. I suppose it is not possible at this stage to say what minimum powers the Government of India would require before acceding to Federation—the proposals for any particular State?—I could not say it this morning.

Sir *Austen Chamberlain*.

6753. May I interpose a question? Does that mean, Secretary of State, that you would be willing later to give some guidance to the Committee and the Delegates upon that point?—Yes, but with this reservation, that I think it will be very difficult to make a cut and dried selection from the list of Federal powers, which we regard as Federal and upon which we hope the Princes will accede; but there must always be some variety in the Instruments of Accession, and in actual practice the only test will have to be whether the conditions are reasonable or not reasonable, and whether the State concerned is really surrendering a sufficiently effective part of its powers for the purpose of the Federation. But I think, certainly, at some period in our discussions, I could give within those limitations a general picture of the kind of powers that we should expect the majority of them to surrender.

Sir *Austen Chamberlain*.] I only asked at this point, Lord *Rankeillour*, because I had intended to put some questions, and if the Secretary of State is going to give us a considered opinion later, I do not want to put my questions to-day.

Lord *Rankeillour*.

6754. Quite. Once the Instrument of Accession has been executed, can it be changed by treaty?—Only with the consent of the parties concerned.

6755. Without any amendment of the Constitution Act, it could be changed by treaty?—Could Lord *Rankeillour* give me a specific case?

6756. What I was thinking of was if the surrender of some power, or the fact that some power not surrendered, worked inconveniently, could that power be surrendered or withdrawn by mutual consent later?—Certainly.

6757. Then is that what is contemplated by the words "or otherwise," at the beginning of Section 3 on page 38?—This is one of the very few vague words in the White Paper, and I think we have got to make it more explicit.

6758. You rather contemplate some subsequent transaction of the nature suggested, do you?—I will look into this

point, I think, with my advisers, and see if we can make a more explicit proposal.

6759. I suppose the Legislature would have something to say to any change of the Instrument of Accession or any subsequent transaction of this kind?—Not to the Instrument of Accession, in the first instance.

6760. No, but afterwards?—Yes, I think, certainly, it would have to.

6761. Now may I ask you just one question again about the Instrument of Instructions, about the Parliamentary position? I do not want to go over it again, but could it not be brought in by a positive Prayer, just like the Proclamation? It is in No. 9, the draft about being laid on the table of both Houses of Parliament. I am talking about the Governor-General's Instructions. Could that not be done by the process in 4 (b) about the Proclamation, so as to make sure that Parliament has a definite opportunity of expressing its opinion? Could not that be assimilated?—I would hesitate to give an answer about Procedure to Lord Rankeillour. I would, however, have thought that there was a difference, really, if not in Procedure, but anyhow in fact, between a Proclamation bringing a great Constitution Act into operation and the Governor's Instructions, and I would have thought the Procedure that we propose is really the more suitable. We do not in any way propose it in order that the Instructions should be passed through without full discussion and the approval of Parliament, but we do think it is a more appropriate kind of Procedure.

Lord Rankeillour.] I understood that the reason of the framing of No. 9 in the way that it is framed was to make sure that there was no possible impingement upon the prerogative of the Crown. The same end would be obtained, and that would be safeguarded, by adopting the procedure of 4 (b), would it not? I do not want to press it now.

Archbishop of Canterbury.

6762. May I suggest about this, surely the procedure by Address is a procedure praying that such and such a thing be done, not contemplating any sort of amendment to the purpose for which the prayer is issued. That is 4 (b), whereas

in proposal 9 with regard to the Governor-General's Instrument of Instructions it is desirable that opportunity should be made of amendment or of discussion, therefore the range and object of the two procedures is quite different?—I think it is a question of procedure. My own view is that the procedure we propose is more appropriate to the circumstances.

Marquess of Salisbury.

6763. The Secretary of State will remember will he not, that he has been most kind as to say that he will lay before us a model in some form of an Instrument of Instructions?—What I said was that it was quite impossible for me to lay any such model before the Committee until I know what the Committee wish put into the Instructions. What I will do, and what I said I will do, is to put in to the Committee a Memorandum about this procedure by Instructions dealing with certain of the points and criticisms that have been raised in our discussions.

Marquess of Salisbury.] We shall be very much obliged.

Sir Austen Chamberlain.

6764. Is not the real distinction between the two cases that the Address to the Crown to bring the Act into force can arise on only a single occasion, and is final, whereas the consideration of Instructions may occur at intervals: In other words, that the Instructions may need to be varied from time to time?—That is exactly the reason that made us prefer the proposals in the White Paper.

Lord Rankeillour.

6765. What I wanted to secure was that the word "representation" was not to be narrowly interpreted as a barren or futile representation?—We have no such intention.

6766. As long as that is corrected. About the transitory provisions——?—We are coming to them later.

Lord Rankeillour.] Very well. There is only one other thing: I think I raised it myself; that is about discrimination. I suggested that there might be a qualification for certain appointments (it was



then provincial, but the same thing applies here) which would, in fact, be discrimination, for instance, that somebody had to be educated at a particular University, or the like, and I think you said that was really covered by the provisions as to discrimination. I confess I cannot find where that is—it is the question of an appointment which depended on a certain qualification which might not be, on the face of it, discriminatory.

*Chairman.*

6767. Could that be looked into and dealt with later, Secretary of State, if you have difficulty in finding it now?—We have put it down, as you know, my Lord Chairman, for a later chapter. I do not mind.

*Lord Rankeillour.*

6768. I think it really arises, or is illustrated, by a note on page 70 as to the registration of medical practitioners. I do not know how that has been dealt with?—I would much rather deal with a question of that kind, with the question of discrimination generally.

*Lord Rankeillour.]* Very well, then I will not press it.

*Major Cadogan.]* I have only one question to ask, if it has not been asked before, on paragraph 29 on page 44. I understand that, as far as the representation of British India is concerned, there will be a maximum of 250 constituencies returning members to the Assembly.

*Chairman.]* I think we had better hold to our arrangement to leave paragraphs 26 to 37 to be dealt with under Franchise.

*Major Cadogan.]* I beg your pardon. I have no questions.

*Sir Joseph Nall.*

6769. I understand the Secretary of State to say it is the fact that matters which it is proposed will be dealt with by the Federation, in so far as they are dealt with by the Government of India to-day, the Council of Princes considers, or from time to time makes representations on those subjects, if all or any of the States are immediately concerned in

what is proposed. Is that so?—I did not understand the question.

6770. Does the Chamber of Princes as it exists to-day from time to time make representations on any matter or act of the Government of India which is deemed to affect all or any of the States?—I do not think that is the state of affairs.

6771. What does the Chamber of Princes do to-day?—The Chamber of Princes discusses questions that concern the States members of the Chamber, and from time to time it takes Resolutions to the Viceroy. Perhaps the representatives of the Princes will correct me in my answer. I do not recall any case in which the Chamber of Princes has intervened in a question under discussion by the Assembly.

*Sir Tej Bahadur Sapru.]* Never.

*Sir Joseph Nall.*

6772. Is it a fact that the matters for which the Chamber of Princes was instituted will now be the business of the proposed Federal Legislature?—No, one certainly could not give an affirmative answer to a question of that kind.

6773. Is it contemplated that the Chamber of Princes will still separately exist?—We do not deal with it in our proposals at all. I think that is very much a question for the Princes themselves as to whether they require an organisation of their own outside the Federation or not. It does not come into the Federation.

*Lord Hardinge of Penshurst.*

6774. Surely the Chamber of Princes has no Constitutional provision at all, has it?—No; Lord Hardinge is quite correct.

*Sir Tej Bahadur Sapru.*

6775. No, and no legislative powers?—And no legislative powers.

*Sir Joseph Nall.*

6776. I wanted to know whether the matters for which it was instituted will be transferred to the Federal Legislature. The answer is No. I ask in that case: Will that Chamber continue to deal with

matters with which it was formerly dealing?—We do not include any proposal about the Chamber in the White Paper proposals at all.

Lord Irwin.] Would it help Sir Joseph Nall if the Secretary of State supplied the Committee with a copy of the Constitution under which the Chamber of Princes work which shows exactly what their functions are? They are advisory, but what they work for is there laid down, and is a charter of their work.

Sir Joseph Nall.] I am much obliged. I have seen it. Is that Chamber to continue, or is it not?

Sir Akbar Hydari.

6777. Are there any questions other than those which will be transferred to the Federal field, for instance, questions which would remain under paramountcy, and which would still remain to be a matter of discussion between the Indian States and the Viceroy, and for which the States which have acceded might find the Chamber more suitable?—I think that may be so.

6778. I am suggesting that the usefulness of the Chamber, whatever it is, will not come to an end merely because certain subjects have been transferred from the paramountcy of the Crown to the Federal Government?—That is so.

Sir Joseph Nall.

6779. I do not want a discussion on this. I have merely asked for the Secretary of State's views so far as they are available. It is proposed is it not, that the States will appoint members to both Houses of the Federal Legislature?—Yes.

6780. And that both Houses will have equal powers in the field of finance whatever those powers may be?—Substantially so.

6781. Arising from Lord Lothian's question, as both Houses would have equal powers in the field of finance, powers of delay would entirely frustrate the scheme. Is that so?—That is one of the reasons that prompted us to adopt the proposal of a Joint Session.

Sir Joseph Nall.] Is it conceivable that if both Houses are to have equal powers, especially in the field of finance, any

powers of delay could be given to one House over the other?

Mr. Rangaswami Iyengar.

6782. Is not the procedure with regard to money bills of a special kind so as to expedite the passage of supply?—Mr. Iyengar is quite correct. Delay is quite impossible in the case of a budget.

Sir Joseph Nall.

6783. Does the White Paper perpetuate or alter the existing fiscal convention?—No, it leaves the position substantially as it is now.

Sir Reginald Craddock.

6784. I would like to ask the Secretary of State just one or two questions which arise in practical administration. I have myself experience of cases in which there is a dispute between two Provinces, and also between a Province and a State. In the event of such disputes would the Federal Government exercise any authority at all about the question in dispute? It may arise, for example, about the smuggling of drugs over the border from a State into a Province, or even sometimes from a Province into another Province in which representations have apparently produced no results. Does the Federal Government exercise any sort of influence over matters of those disputes?—I am quite ready to take up this question with Sir Reginald Craddock, but you will observe that you have in the agenda put down as one of the subheads "administrative relations between the units." This is essentially one of those questions.

6785. Yes; I have looked through those, and I did not see anything that bore on this point, but I will keep it over till then?—That is one of the questions I expected to be raised under that subhead. I will deal with it then.

Sir Reginald Craddock.] I have no other questions.

Mr. Davidson.

6786. Secretary of State, there have been one or two questions arising on the subject of the States accession to Federation. Is it your view that all States, whether large or small, will be dealt with individually on the basis of their Treaty rights?—Yes, certainly.

Lord Eustace Percy.

6787. Secretary of State, when a question was put by Lord Salisbury last time you seemed to agree that it was possible that one of the Governor-General's Ministers would vote against the Governor-General in a discussion in the Chamber. Is that, in fact, conceivable?—I do not recall any answer I gave that seemed to imply that.

6788. Lord Salisbury raised the point (I think I am correct) of what would happen supposing the Minister of Finance voted for a Resolution proposed in the Chamber to the effect that the expenditure on the Army was too high, and you accepted the assumption. Do you think, in fact—?—Just let me stop, Lord Eustace. What was his case that he gave me?

6789. The case, I think, put by Lord Salisbury was that a Resolution was proposed in the Chamber to the effect that the cost of the Army was too high?—Yes.

6790. And that the responsible Ministers voted for the Resolution?—Yes.

6791. Do you think that, in fact, it is conceivable that the responsible Ministers should vote against the policy of one of the Reserved Departments, and yet remain Ministers?—No; in fact, speaking as a politician of some experience, I would say it would seem to me to be impossible.

Lord Eustace Percy.] On the analogy of the present dyarchical system in the Provinces has there ever been a case, so far as you know, where one of the Ministers of the Transferred Departments has voted in favour of a hostile Resolution moved in respect of one of the Reserved Departments?

Sir A. P. Patro.

6792. There are many cases?—What would Sir Malcolm Hailey say about that? (Sir Malcolm Hailey.) I believe there have been such cases. Usually the Convention is that when there is a Resolution which in a pronounced form attacks the reserved half the Minister does refrain from voting on it. That is the usual convention, but I believe there have been cases in which the Ministers have voted in a way that substantively did amount to a vote

against a Reserved Department. That is by a convention always avoided. I think that is the experience of practically everyone here.

Sir Tej Bahadur Sapru.] That is so.

Lord Eustace Percy.

6793. Would I be correct in saying that, in practice, the scheme at the Centre under the White Paper will not work unless the responsible Ministers do, in fact, support the policy of the Government, as a whole, both the Reserved and the Transferred Departments?—I do not think I could go quite as far as to make an affirmative answer to a very general question of that kind.

Marquess of Salisbury.] *Ex hypothesi*, the Ministers are not responsible for this particular thing. That is the distinction which Lord Percy has not appreciated.

Lord Eustace Percy.

6794. I perfectly appreciate that distinction. I also appreciate that in English history Ministers were held responsible by Parliament for acts which were certainly within the Prerogative of the Crown, and that is how the doctrine of responsibility actually arose. May I put a concrete case. Under the White Paper the whole financial proposals of the Government have to be laid before the Chamber in one budget. I think that is so, is it not? A statement has to be laid before the Chamber?—(Sir Samuel Hoare.) Yes.

6795. That must be laid by the responsible finance Minister?—Yes.

6796. Is it conceivable that the responsible finance Minister should disclaim responsibility for any of the items in that budget?—I would hope not, and I would certainly say that if the Government was in pronounced opposition to the Governor-General a crisis would have arisen, and the various stages that we have discussed would then come into operation. I cannot myself imagine a situation continuing in which the Governor-General is in pronounced opposition to his Ministry, and his Ministry in pronounced opposition to the Governor-General.

Marquess of *Salisbury*.

6797. It is clear that one or the other would have to give way, is it not ?  
—I think it is.

6798. Surely it would be the Governor-General ?—I would say not.

Marquess of *Zetland*.

6799. Surely it would be open to the Minister when he laid the statement before the Chamber to say that he accepted no responsibility for the expenditure on the Army. That would be merely stating the facts ?—It is because of that that I refused to give a general answer, yes or no, to Lord Eustace's very general question. I would restrict myself to saying that when there is pronounced opposition (I lay particular emphasis on the words "pronounced opposition") between the Government and the Governor-General, then those stages that we discussed the other day come into operation.

Lord *Eustace Percy*.

6800. I am anxious to get what is the assumption. Just now Lord Salisbury said, and I think you indicated agreement, that one or other would have to give way, whereas on Lord Zetland's assumption neither side would have to give way, and the question really is whether the system will work on a purely dyarchical principle, or whether, in fact, the Councillors and the Ministers will have to be in substantial agreement in presenting the budget to the Legislature ?—I do not think I have anything to add to what I have just answered. It is a question very much of degree. If the disagreement is not on a big scale between the Governor-General and one of his Ministers, or the Ministry collectively, then a crisis may not arise at all. There may be expedients for getting over it without a direct breach between them. If, on the other hand, the crisis is a serious one, then we feel we have made provision for meeting it in the White Paper proposals.

Lord *Eustace Percy*.] While I do not want to press you, I do want to ask you to consider the fact that the Finance Minister in presenting the Budget will be presenting the Budget for taxation, about one half of which

at least will be required for the Army. Is it conceivable that the Finance Minister can disclaim responsibility for one half of his proposals for taxation on the ground that they are intended to meet an object for which he has no responsibility.

Marquess of *Zetland*.] They are not votable.

Lord *Eustace Percy*.] They may not be votable, but the taxation is.

Witness.] I think I have made my general position clear.

Sir *Austen Chamberlain*.

6801. Just for one moment continuing on the same subject, Sir Samuel Hoare, should I be right in assuming that, although you hope the Government would be in sufficient harmony with the Governor-General, to defend his acts if occasion arose, you do not feel that under the Constitution they can be held responsible for subjects which are strictly reserved to the Governor-General's discretion ?—No. The field of responsibility is clearly marked out between the two sides of Government.

6802. It would therefore be possible, and quite proper, for a Minister or a Government to say that they had no responsibility for that part of the Budget which embodied the military expense ?—Certainly ; and in any case there is going to be no voting on it.

6803. And the crisis would arise if the Government obstructed the Governor-General in the execution of his responsibility, rather than if they merely differed from him or explained that they were not responsible ?—Yes, that would be so.

6804. And if they became obstructive, then the various safeguards of which you have spoken would come into play in such order and in such form as the Governor-General thought requisite at the time ?—Yes.

6805. Now I want to turn to quite a different subject : to revert for a moment to the powers of the Governor-General to legislate or to issue ordinances, but for the purpose of raising a point which I think has not been discussed ?—Yes.

6806. As I understand it, if the Governor-General legislates or issues an

ordinance, that legislation or ordinance is only variable or revocable by the Governor-General himself?—Yes.

6807. If he chooses to legislate there is no check on his authority, apart from the general control of the Secretary of State, except his power in his discretion to reserve the law for His Majesty's assent or the power reserved by Proposal 40 to His Majesty in Council to disallow any law within 12 months?—Yes.

6808. If he acts by ordinance and requires his ordinance for any period beyond six months, quite a different system is introduced by the White Paper. The extension of the ordinance beyond the period of six months must then be approved by an Address from both Houses of this Parliament?—Yes.

6809. Does it not seem to you paradoxical that an ordinance which is temporary should require the assent of Parliament, whilst that Parliamentary assent is not thought necessary to be expressed when he passes legislation which may be permanent? In other words, why do you require the assent of Parliament to a Governor-General's ordinance when you do not feel it necessary in respect of his legislation?—I think Sir Austen has drawn attention to what may appear to be an anomaly. I do not think I have got a very good answer to his question.

6810. Thank you. I will leave it at that. Of course, if the Secretary of State wants to add anything after consideration, I shall be very glad to hear that, and perhaps you, my Lord Chairman, will allow that at another sitting. For the moment I do not want to put any further questions.

Earl of Derby.

6811. I would like to ask two questions clearing up points which have been asked before. I quite understand that the question of the Army is a non-votable question, but, at the same time, the money to pay for it is votable. Is not that so? The taxation necessary to find the money is votable?—Yes; you mean the taxes are votable?

6812. The taxes are votable?—Yes.

6813. Supposing the Assembly said: "We will not put on the taxation that

is necessary to find the money to pay for the Army," what is the procedure then?—The Viceroy then has powers under Proposal 53 of adding such taxation as he thinks necessary.

6814. The only other question that I want to ask is about the two Houses. It is a different procedure from ours?—Yes.

6815. In this country the House of Lords has no power to amend or in any way interfere with a Money Bill?—That is so.

6816. In the new Constitution the Upper House will have that power. It will have similar powers to those of the Lower House?—Yes.

6817. What will happen, then, in the case of the Upper House amending we will say, in the first instance, a Money Bill coming from the Lower House, which amendment the Lower House refuses to accept?—Then you have a joint session.

6818. And that must be, according to your present proposal, within six months of that happening?—In the case of the Budget, it can be done at once. In other cases we contemplate that there would be a period of delay.

6819. You say it can be done at once. That must be with the consent of the two Houses?—No, the Governor-General can order it.

Archbishop of Canterbury.] It is Clause 41.

Earl of Derby.] Thank you.

Lord Hutchison of Montrose.

6820. In relation to the Federation of Princes, is it contemplated that those Princes who do not federate may come into the Federation at a later date on the same terms as those who originally federate?—It is very difficult to say "on the same terms" because I am not quite clear what Lord Hutchison means by the "same terms." If he means that they will come upon individual Treaties of Accession just as the other Princes have entered by individual Treaties of Accession, my answer is Yes.

6821. The reason I asked that question was that if the terms are going to be the same it would have a tendency, would it not, to allow the Princes to remain out until they saw how things

moved?—I do not think you can have a rising scale very well in practice. What you can do is, you can have your Instruments of Accession and the Viceroy must judge with future accessions if the terms are reasonable.

6822. Do you contemplate the Princes of States which federate sitting in the Chamber of Princes?—Do I contemplate what?

6823. Would the Princes who agree to federate continue to sit in the Chamber of Princes?—I myself do not know whether the Chamber of Princes will go on or whether it will not go on. That is very much a matter for the Princes themselves. We have not included anything about the Chamber of Princes in our scheme.

*Mr. F. S. Cocks.*

6824. Regarding the Instruments of Accession of the Indian States is it intended to make every effort that there should be a common uniform agreed list of subjects transferred?—Yes, certainly.

6825. Will States' Representatives be entitled to vote on Federal matters which Their Highnesses have not transferred?—This is an aspect of the question we discussed at some length the other day, namely, the in-and-out idea of voting, and I have really nothing to add to what I said then, namely, that I believe you must allow it to be dealt with by Convention. I believe in actual practice the States will neither wish to intervene in the internal British Indian affairs nor will they so intervene. At the same time, it is very difficult to make a cut-and-dried definition, saying when they can vote and when they cannot vote, and the particular difficulty is the difficulty of votes of want of confidence in the Government, and votes which, although they may not be actually votes of want of confidence, yet would undermine the existence of a Government in which the Princes themselves are directly represented.

6826. Outside those two classes of questions you think a Convention should be recognised that Indian States should not vote upon purely British Indian matters?—I think that is what is going to happen.

6827. Under Proposal 12 I understand that those three Counsellors for the Re-

served Departments will be ex-officio members of the Legislature with the right to speak but not to vote?—Yes.

6828. Will they be members of the Cabinet or of the Ministry—of the Government?—Constitutionally they will be responsible to the Governor-General, whereas the Ministry constitutionally will be responsible to the Legislature. There is, therefore, that distinction between the two kinds of Ministers. I believe, in actual practice, they will co-operate closely together and there will not be this gulf between the two branches of Government; but constitutionally their responsibilities will be quite distinct.

6829. Will they sit together at Cabinet meetings?—It will rest at the discretion of the Governor-General. I imagine in actual practice they will tend more and more to sit together, but that does not in any way impinge upon their actual responsibility and upon the discretion of the Governor-General to conduct his business as he wishes.

*Mr. M. R. Jayaker.*

6830. Will the Instrument of Instructions to the Governor-General contain any indication that he ought to make the two halves sit together?—I should certainly hope that the Instrument of Instructions would include paragraphs drawing the attention of the Governor-General to the great advantage of working the two sides of Government in as close and sympathetic co-operation as is possible.

*Mr. F. S. Cocks.*

6831. In view of the statement on page 13 of the White Paper, that the Governor-General should encourage joint deliberation between himself, his Counsellors and his Ministers on various questions, particularly Defence, would it not be advisable to set up a Cabinet Committee on Defence which the Counsellors should attend and which would discuss the Army Estimates and work out a joint policy with regard to the Indianisation of the Army?—I do not think here we can possibly go into such questions as whether Cabinet Committees are to be set up for a particular purpose or not. Our desire is, and we do state it in the White Paper proposals,

that the Government should be consulted about Defence expenditure before the Budget is introduced. That again does not impinge upon the Governor-General's exclusive responsibility, but that is the way in which we hope the Government will actually be carried on, assuming a certain amount of commonsense and goodwill on both sides.

6832. Under Proposal 17 the Governor-General is to be entirely at his discretion to appoint a Financial Adviser. Is this appointment contemplated as a practical certainty or merely as a possibility?—May we leave this question until we come to deal with finance? It is one of the important questions in that field.

Mr. F. S. Cocks.] Very well. There are one or two questions I would like to ask the Secretary of State on Proposal 18. If these questions have not been asked I would like to ask them now. Under 18 (c), the safeguarding of the legitimate interests of the minorities, do you not think that that might be more closely defined? There was a suggestion, if I may return to the suggestion of Dr. Ambedkar, which he put forward at a previous meeting, which was the addition of the words, "in the matter of adequate provision for education, entry into public services and representation on public bodies."

Marquess of Salisbury.] What paragraph?

Mr. F. S. Cocks.] 18 (c), page 41.

Witness.] I have given a number of answers to similar questions. My view is that it would be a mistake to make these definitions more explicit. The more explicit we make them, the more we shall add more and more conditions to them, and even at the end of it we may find that the definition is really inadequate for a particular situation that may arise.

6833. What exactly does "commercial discrimination" mean in paragraph (c)? Is it a discrimination between one industry and another?—Are we not going to deal with that later on? It is one of the sub-heads; the Committee agreed to take it as a sub-head.

6834. Under (g): "any matter which affects the administration of any Department under the direction and control of

the Governor-General." Does that mean that the Governor-General will be able to interfere with a transferred Department on the ground that it is affecting one of the Reserved Departments?—Yes.

6835. Under 39, the Governor-General having the power to withhold his assent, is that confined to measures which he considered would be a menace to peace and order, or can he refuse to accept a Bill merely because he, personally, does not like it?—This is the usual Constitutional power that is inherent here in the Crown.

6836. Will he have to get the consent of the Secretary of State?—It does not necessarily follow that he would have to get the previous assent of the Secretary of State, but he acts at his discretion, and that means he acts under responsibility to the Secretary of State.

6837. Under 40: "Any Act assented to by the Governor-General will within 12 months be subject to disallowance by His Majesty in Council." As a matter of practice, any measure to which the Governor-General has given his assent, has already been assented to by the British Cabinet also, has it not?—No. I am not assuming that every proposal in the Indian Federal Legislature comes up to the Cabinet here; I cannot imagine any state of affairs like that at all.

6838. I was wondering if that was the case, why the Governor-General should have the power to alter his decision in 12 months, or when a new Government comes in. This clause has been previously in the Constitutions of the other Dominions, but has been abrogated by the Statute of Westminster, has it not?—I think that is the case, but I could not give an informed answer. I think it is so.

6839. If that is the case, is there any special reason why it should be?—I should have thought it was rather a good reason for putting it in, if it has been put into all these other British Empire Constitutions in the past.

6840. Under 52 (b) (iii), does this mean that the Governor-General can prevent any question being asked, or any debate taking place on foreign affairs?—Yes.

6841. Do you not consider that that is a rather stiff limitation of the rights of self-expression on the part of Indian Members of Parliament?—I think a provision of this kind is essential, but the two fields of responsibility are to be preserved. No doubt, there will be, I hope, a lot of common sense applied to the way in which provisions of this kind are actually carried into effect. For instance, the Governor-General can, no doubt, deal in his Instructions about business with the way in which they should be dealt with, but somewhere or other there must be a provision in the Constitution Act under which the Governor-General will be able to prevent debates that will do injury to the activities of the Departments for which he himself is responsible.

6842. Secretary of State, there is one question which I think comes under this Section. You know that at the Round Table Conference on the 1st December, 1931, the Prime Minister said that these safeguards were for the purpose of a period of transition, and he said that: "In such statutory safeguards as may be made for meeting the needs of the transitional period it will be a primary concern of His Majesty's Government to see that the reserved powers are so framed and exercised as not to prejudice the advance of India through the new constitution to full responsibility for her own government." What I want to ask you is this: Does this proposed Constitution anywhere contain the seed of growth of development by which India can pass out of the transitional period to the period of full responsibility, but must every alteration of the future, however slight, have to come before the British Parliament?—I should have thought the whole basis of these proposals was a basis of development. What I imagine, anyhow what I hope will happen, will be that the two sides of the Government will work closely and sympathetically together, that year by year the Governor-General and the Governor will have less and less reason to intervene in the field of his special responsibilities, owing to the fact that the Ministries themselves will be ensuring that the rights contemplated in the field of special responsibilities are safeguarded, and that, just

as in other parts of the Empire, as the Governments develop, so powers of that kind fall into desuetude, not because the powers are unnecessary, but because the Ministries themselves carry those powers into effect, and I hope and believe that that is what is going to happen in India. In course of time, other Acts of Parliament will be necessary, necessary more to recognise a state of affairs that is in existence than to make actually new changes. That is the way I hope and believe the kind of Constitution that we are discussing is going to work in the case of India.

*Sir Tej Bahadur Sapru.*

6843. May I add one question: Have you made that statement, Sir Samuel, with reference to special responsibility or also with reference to Reserved Subjects, because I can understand his special responsibilities falling into desuetude at some time or other, but can the provisions with regard to Reserved Departments so fall into desuetude when there is a statutory provision by Act of Parliament?—My general answer covers both those fields of development, although in actual practice the development will be upon different lines. In the case of the Reserved Departments, taking in particular by far the most important case, the case of Indian Defence, I have always thought that the problem of Indian Defence depends, to a great extent, upon the Indianisation of Indian Defence, and there we are embarking upon a programme of gradual Indianisation. As the Defence of India becomes Indianised, so the particular justification for the reservation of a Defence Department will more and more cease to exist, and the solution, therefore, of the reservation of Defence, subject always to the rights of the Princes under their Treaties, will depend, to a great extent, upon the progress of the Indianisation of Defence.

6844. But it can only be effected by an Act of Parliament ultimately?—Ultimately, certainly.

*Major Cadogan.*

6845. It cannot become transferred by convention or by desuetude?—No, that



is exactly what I said to Sir Tej—only by Act of Parliament.

Lord Eustace Percy.

6846. Might I ask you upon that pure question of fact, is it intentional that there is no provision in the White Paper requiring that a Counsellor of the Governor-General shall not be a Member of the Legislature?—I think we have left it completely open.

6847. You have left it completely open, deliberately?—Yes.

Mr. Rangaswami Iyenger.

6848. Therefore, would it be possible, even under your White Paper scheme, for a Member of the Legislature, who commands the confidence of the Legislature, to be in practice in charge of the Defence, in due course?—Just complete the end of your question again, Mr. Iyenger.

6849. And, therefore, according to your White Paper, there could be no Constitutional impediment in the way of the Governor-General appointing a Member of his Council for the Reserved Departments, a Member of the Legislature commanding the confidence of the Legislature, in due course?—We have left the choice absolutely free to the Governor-General. He can take anybody he likes; he can take the best man that he can find.

Mr. Zafrulla Khan.

6850. Supposing he does take an elected Member of the Legislature, would it not follow that the moment that Member was appointed a Counsellor, he would cease to be an elected Member of the Legislature? May I, in this connection, draw your attention to paragraph 25, on page 43, of the White Paper?—I think Mr. Zafrulla Khan is quite correct; I think that is so.

Lord Eustace Percy.

6851. Why?—He would become an official, and, being an official, he would vacate his seat.

Mr. Rangaswami Iyenger.

6852. Therefore, an Act of Parliament will certainly be necessary for register-

ing any progress in regard to putting Defence under the control of the Legislature?—Yes; I do not think there has ever been any question about that. That was the answer I gave to Sir Tej just now.

Sir Tej Bahadur Sapru.] You made your position quite clear, in your answer.

Sir Austen Chamberlain.

6853. Broadly speaking, the position is that the exercise of powers under the Act may be varied as circumstances alter, but the Act itself can only be varied by the same authority which passes it?—Exactly.

Lord Eustace Percy.] Just on this question of fact, I want to get this clear. Proposal 25, so far as I read it, does not say that a Member of the Legislature who is appointed a Counsellor shall thereby vacate his seat.

Lord Irwin.] Surely, it is hard to imagine an elected Member being denied the right of voting?

Lord Eustace Percy.] But under Section 25 the emphasis, surely in that second paragraph is on the words "*ex officio*." He is *ex officio*, an additional Member of the Chamber, even if he is not of the ordinary Chamber. It does not say he shall not be a full Member of the Chamber, if he is a Member of the Chamber.

Sir Akbar Hydari.] Paragraph 34 (a).

Lord Eustace Percy.] Yes, that is relevant. Is 34 (a) intended to exclude a Counsellor?

Marquess of Salisbury.

6854. Does the Secretary of State adhere to his answer—I presume he does, as the White Paper suggests, that an elected Member cannot be one of the Counsellors?—Yes; he would have to resign his seat.

Sir Akbar Hydari.] Paragraph 34 (a).

Archbishop of Canterbury.

6855. He would resign his seat, and then resume a different position as a Member without voting?—Yes.

Marquess of Reading.

6856. That follows, does it not, from 34 (a), and then applying the last paragraph of 25 ?—Yes, that is so.

Mr. Cocks.

6857. I have only one more question to ask the Secretary of State, and it is this. Will not the Central Government as contemplated by the White Paper, be an exceedingly conservative body, using the word in its general sense, of course. Will not its weakness be a tendency to resist change, rather than an inclination to headlong progress ?—That is a very wide question, but I think Mr. Cocks should remember that the Federal Government has a limited and defined sphere of activity. It is a Federal Government, and it will deal with the Federal subjects set out in one of the Appendices, or some such subjects. I do not think the kind of considerations that he has got in mind will really enter very much into the activities of a Government of that kind.

Lord Snell.] My Lord Chairman, my questions have been covered.

Major Attlee.

6858. Secretary of State, I want to ask you one or two questions to try and get a picture of what the Central Government is going to be like. You say that the range of subjects is fairly small at the Centre ?—Yes.

6859. Does it not come down to this that you have Foreign Affairs and Defence reserved and your railways are going to be under a Railway Board ? The subjects with which they will have to do are really confined to what we should call Board of Trade Exchequer, and Attorney-General subjects, practically, a very narrow range of subjects ?—Major Attlee will see the range of subjects in Appendix VI.

6860. That is a rough summary ?—But, speaking generally, I would say the field would be a limited field.

6861. For the purpose of dealing with that, you are going to have two Houses with 635 Members altogether. Is not a great number of your Members going to have extremely little to do with the very

large body at the Centre with such a small range of subjects ?—Major Attlee is saying very much what I myself have said at former discussions. I have always thought that if we were writing upon a clean sheet of paper, and we were creating an ideal kind of Federal Constitution in India, we should follow very much the line that Major Attlee's question has just suggested, namely, we should have a small and, possibly, a rather technical expert body in the Centre, dealing with this limited number of Federal questions, and in the realm of theory, there is almost an unanswerable argument to be made for a Government of that kind. The trouble we have found is that there is a series of practical difficulties, that, so far, we have found almost insurmountable in the way of forming a Government of that kind. Let me suggest to Major Attlee one or two of them. Perhaps, the two most prominent are, first of all, the desire of a substantial number of Princes that their representatives should take a direct part in the Central Government. That fact in itself, has so far made it very difficult for us to keep the numbers of the Legislature lower than the numbers that we propose in the White Paper. Secondly, there is the fact that hitherto, I think almost without exception, the representative of British-India have been in favour of bigger Chambers, such as those that I have suggested, and have attached very great importance to those Chambers having a more popular foundation than would be possible in the kind of Chamber that I at one time contemplated. That, my Lord Chairman, is the problem. Upon the grounds of merit, there is a great deal to be said for a small Chamber and a small Government dealing with a limited number of Federal subjects. Upon the grounds of public policy, there are two facts that have got to be taken into consideration. First of all, the satisfaction of a sufficient number of Princes that they will be taking a direct part in the Government of an All-India Federation, and, secondly, the very strong public opinion in British India itself.

Mr. Y. Thombare.] And besides this, there is again the consideration that the Central body will have to deal with a

Revenue of nearly 78 crores, an expenditure of nearly 77 crores, which represents nearly half of the Revenue and half the expenditure for the whole of India.

*Chairman.*

6862. I shall have to interrupt Major Attlee now in order to inform the Committee that the Secretary of State in obedience to a command, must leave us at this moment, a quarter to one. The Secretary of State has suggested to me that the Committee and the Delegation might choose to continue the examination of Sir Malcolm Hailey and Sir Findlater Stewart on the more technical interpretation of the White Paper, perhaps, in his absence. I understand that he will return here at about a quarter to three. Is that correct, Sir Samuel?—I will come back as soon as I can; I shall assume, about then.

6863. We must release then at this moment the Secretary of State?—I think, my Lord Chairman, Sir Findlater Stewart and Sir Malcolm Hailey could deal with a great many of these questions on the interpretation of the White Paper in my absence. Any questions of policy, I could resume when I come back.

*(The Secretary of State withdrew.)*

*Sir A. P. Patro.*

6864. Sir Malcolm or Sir Findlater, will you kindly tell me, is it meant that in order to fulfil the condition required in the White Paper, that weight will be given in both Houses to the States who have already joined the Federation? It is said that weightage will be given to the States who have already joined in the Federation. Is it meant that in order to fulfil the condition required in the White Paper weightage will be given in both Houses to the States who have joined the Federation, or is it laid down in the White Paper that you are going to give weightage to the Indian States?—*(Sir Findlater Stewart.)* The weightage the Secretary of State has been talking about to-day will only arise when the 51 per cent. which is laid down as a condition of Federation is in being.

6865. Is it not unfair to British India that the Federal Assembly should be

swamped with the Indian States?—It cannot be swamped beyond the percentage that is contemplated for the permanent state of affairs, that is to say, 30 per cent.

6866. Is not it unfair and an injustice to British India?—I conceive the Secretary of State's view to be this: You have got to persuade the States that when they come in to the extent of 50 per cent. they shall not be left in a rather weak position pending the time when the other States see fit to come in. There is bound to be some kind of lag in a matter of this sort. Every State does not make up its mind at the same time, and, as I conceive the Secretary of State's tentative suggestion, it is, that you should make some kind of interim weightage in order to cover this lag period. He does not intend in the least that the British Indian side of either House should be swamped.

6867. British India has elected representatives and Indian States are only nominees of the Princes. Are you not therefore increasing the unrepresentative character of both Houses by giving weightage to the Indian States?—I do not think you are increasing it beyond the extent to which it is contemplated that it shall exist when the full scheme comes into force. If you are saying that the representation of the Princes by nomination is unfair or wrong, that is a different question, but that is a question of policy that perhaps I had better not go into.

6868. I am not going into the right of the Princes to nominate but by acceding to the principle of weightage are you not increasing the unrepresentative character of these two assemblies?—*(Sir Malcolm Hailey.)* I think it would be true to say that if a wrong has been done it has been done by laying down those proportions of 125 out of 375 in the Lower Assembly. The wrong is not increased by giving an *ad hoc* weightage pending the arrival of the full percentage of Princes.

6869. A wrong has been done to British India by allowing this kind of representation—nomination by the Princes; and added to that you give them weightage in order to destroy any kind of representative character in the Assembly?—*(Sir Findlater Stewart.)* Of course, the

Secretary of State would not admit that a wrong had been done. He would not admit your primary proposition.

Mr. *Zafrulla Khan*.] Your submission is that this is weightage upon weightage ?

Sir *A. P. Patro*.] More than that. It is crushing the British Indian by dumping in the representation of the Indian States.

Sir *Akbar Hydari*.] You would want the Indian States to come in without giving them any voice ?

Sir *A. P. Patro*.] We know what the Indian States are, and therefore we know the danger of having nominees of an unrepresentative character in this Assembly.

Sir *Hubert Carr*.

6870. No. 44 gives the Governor-General power in his discretion, "in any case in which he considers that a Bill introduced, or proposed for introduction, or any clause thereof, or any amendment to a Bill moved or proposed, would affect the discharge of his 'special responsibility' for the prevention of any grave menace to the peace or tranquillity of India, to direct that the Bill, clause or amendment shall not be further proceeded with." That, I understand, is only in the case of his special responsibility for the peace or tranquillity of India being threatened. Does any such power exist for him in the case of his other special responsibilities being threatened ?—No, I think not.

6871. For instance, (b) : "The safeguarding of the financial stability and credit of the Federation" ?—No ; it is limited to the special responsibility for grave menace to peace and tranquillity. (Sir *Malcolm Hailey*.) I think I could give Sir *Hubert* the reason for that. It is a practical repetition of Section 67 (2 a) of the existing Act which only refers to the safety and tranquillity of British India, and it has been repeated almost in terms.

6872. It is not considered necessary to give the Governor-General that power to prevent his responsibilities being threatened other than peace and tranquillity ?—(Sir *Findlater Stewart*.) No. He could, of course, refuse his assent to the Bill as passed by the House.

6873. But he cannot stop the discussion ?—No.

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Dr. *B. R. Ambedkar*.] I would like to reserve my questions for the Secretary of State because they are questions of policy.

Mr. *N. M. Joshi*.

6874. May I ask a question about the initiation of Money Bills in the Lower Chamber only ? I want to know the exact interpretation of the word "initiation." I will give an example. If there is a Bill for increasing the rate of Income Tax and it is defeated by the Lower Chamber, can it be taken to the Upper Chamber ?—Yes.

6875. My question was if a Bill is introduced into the Lower Chamber increasing the rate of Income Tax, which is a Money Bill, and if the whole Bill is defeated, can it be taken to the Upper Chamber ?—The intention is that he should then be able to take it to the Upper Chamber.

6876. May I ask you what is the advantage of the proposal that the Money Bills shall be initiated in the Lower Chamber ? There is a joint session ?—It is to enable discussion to take place in two Chambers before the joint session takes place.

Marquess of *Salisbury*.] Is it a question of tax being struck out in the Lower Chamber and restored in the Upper Chamber ?

Mr. *N. M. Joshi*.] The question is whether a Money Bill consisting of the increase of the Income Tax once defeated by the Lower Chamber could be taken up to the Upper Chamber ?

Marquess of *Salisbury*.] Not if the whole Bill had been defeated.

Mr. *N. M. Joshi*.] The Bill is for the rate of Income Tax being increased.

Sir *Austen Chamberlain*.

6877. Will Sir *Findlater Stewart* consider what the answer to that question is ? Is it really in the affirmative that if a Bill proposing to raise Income Tax were introduced as it must be in the Lower Chamber, and were rejected there, it would be possible for it to be then reintroduced into the Upper Chamber ? Is that compatible with the initiative being with the Lower Chamber in matters of finance ?—If you look at Proposal 42, suppose it were a Money Bill, a taxation

Bill : upon the passing of which depended the Governor-General's power of financing his Army expenditure (that is the kind of case in point), in order to enable the Governor-General to fulfil the responsibilities imposed upon him for the Reserved Departments, he will be empowered at his discretion "(a) to present, or cause to be presented, a Bill to either Chamber," and to declare by a Message that it is essential and then have it passed. We should have to use this. Supposing it were thrown out in the Lower Chamber, I think the intention was to enable him to introduce it in the Upper Chamber as a preliminary to a joint discussion by both Chambers. I admit the point is not very clear in the White Paper.

*Sir Tej Bahadur Sapru.*

6878. Is not that a very special procedure applying to the Governor-General's Acts? Would not that be an abuse of the power under that Proposal No. 42? These are the special Acts of the Governor-General and you have provided a special procedure?—Yes.

6879. To take a Money Bill which has been rejected by the Lower House to the Upper House would I submit be an abuse of this procedure?—The governing words in Proposal 42 are "to fulfil his special responsibilities."

6880. A Money Bill is not necessarily a special responsibility?—Not necessary; but I propounded a case where the securing of the money was essential for the purpose of carrying on his Army finance.

*Marquess of Salisbury.*

6881. This would be an exception to Money Bills being initiated in the Lower Chamber?—Yes.

6882. The case might arise that by order of the Governor-General it would be initiated in the Upper Chamber?—Yes, or repeated in the Upper Chamber.

*Mr. Morgan Jones.*

6883. Does that answer Mr. Joshi's question, which I understood to be this: Supposing a Money Bill dealing with Income Tax, having nothing to do with Defence, were defeated in the Lower Chamber, could that Money Bill be taken

to the Second Chamber and reintroduced there?—Not unless it fell within the special responsibility.

*Mr. M. R. Jayaker.*

6884. Is it not a fact that when a Bill is introduced for levying taxation it is not common to mention the purpose for which the money is to be utilised?—I will take that, but I have no doubt it is so.

*Viscount Burnham.*

6885. Is it not covered by Clause 39 of the proposals at the bottom of page 46, dealing with the power of the Governor-General who would be "empowered at his discretion, but subject to the provisions of the Constitution Act," and so on, "Before taking any of these courses it will be open to the Governor-General to remit a Bill to the Chambers with a Message requesting its reconsideration in whole or in part, together with such amendments, if any, as he may recommend."

*Mr. N. M. Joshi.*] May I make my question clear I definitely did not mention the budget because, if the money Bill at the time of the Budget is voted down by the Lower Chamber, there will be a breakdown of the Constitution. I shall not therefore deal with that case. I am dealing with a Money Bill which is brought before the Lower Chamber separately from the Appropriation Bill. I shall give up the first example which I gave about Income Tax, but suppose there was a Bill to raise import duties on wheat not for the purpose of getting money but to stop the importation of wheat. If such a Bill is brought before the Lower Chamber, and is defeated, what is the object of the framers of the White Paper whether that Bill shall be initiated in the Upper Chamber again or not?—I do not think it would be initiated in the Upper Chamber subject to Proposal 42.

*Sir Tej Bahadur Sapru.*

6886. The Money Bill will be introduced into the Lower House by the Finance Member, or by the Finance Minister. The Governor-General's Acts may not be supported by the responsible Minister, and that is the reason really for having a provision of that character,

and the Governor-General's Acts will be introduced into whichever Chamber you like by one of the three Counsellors?—That is true. It may be.

6887. Therefore the procedure contemplated by Proposal 42 would not apparently apply to the case put to you by Mr. Joshi?—I am afraid I was concentrating on the special responsibility side of the thing, and I wanted to make clear that there was provision in the Act.

*Mr. M. R. Jayaker.*

6888. With reference to Proposal 42, is it your interpretation that the provisions of Proposal 42 apply only to the Governor-General's Acts, or does it apply to other Acts which involve the exercise of his special responsibilities whether they are the Governor-General's Acts or the Legislature's Acts?—Proposal 42 applies to Governor-General's Acts. It is devoted entirely to them.

6889. Only Governor-General's Acts?—Yes.

*Sir Austen Chamberlain.*

6890. The original question, I understand, related purely to a taxing Bill?—Yes.

6891. And the answer that we received from Sir Findlater Stewart was that if the taxing Bill affected the Governor-General's responsibilities, he could reintroduce it into the Upper Chamber?—Yes.

6892. How would a taxing Bill affect the Governor-General's responsibilities? It is the appropriation of money, is it not, which affects his responsibilities, and that is dealt with under Proposal 50?—What I had in mind was this: Various passages in this White Paper secure that the Governor-General gets the right to take out money for defence purposes, shall we say, but that is all contingent on the money being there, and it may be necessary to pass a Taxation Bill in order to get the money there so that he may take it out. It is no good giving him the power to take it out if it is not there, and it may be necessary, therefore, to enable him to discharge his responsibilities for having an efficient well equipped Army, in effect, to give him power to tax so that the Exchequer

may be full, and that is what I had in mind when I made the first answer to the question.

6893. I understand his power to appropriate, and I understand his power to tax. What I do not understand is the reason for giving him power to introduce a taxing Bill into the Second Chamber if the first Chamber has already rejected it. I thought the initiative in taxing was to rest with the First Chamber. Am I right in that?—That is quite true normally, but this is a question that has been discussed in another connection before. In fact, it has been discussed in connection with Proposal 42. I can conceive that a Governor-General wishing to tax for the purposes of the Army, and having had his proposal's rejected in the Lower Chamber, might possibly be strengthened in public opinion by the agreement of the Upper Chamber, and I think in the past, if I am mistaken, the consent of the Council of State to financial measures has often proved of some use in the existing Constitution.

*Sir Akbar Hydari.*

6894. Would it not be like this, Sir Findlater, that even without bringing in the Governor-General the Money Bill would have been brought in by the Federal Government as a scheme of entire taxation—part of the way in which they could make the budget balance? The Lower Chamber somehow or other, by a very narrow majority, has thrown out that Money Bill. It is still open, is it not, under your White Paper, that the Bill should be carried to the Upper House, and, if it is passed there, then the difference of opinion between the two Houses would be resolved by a Joint Session?—Yes.

*Marquess of Lothian.*

6895. May I call attention to Proposal 48 which is relevant to this, and ask exactly what it means? It reads: "The demands as laid before the Assembly will thereafter be laid before the Council of State." Does that mean whatever alterations are made by the Assembly the original Bill shall be laid before the Council of State?—It means that these demands will be laid before the Council of State. It does not mean that the Council of State shall vote on all of them,

but, if a particular portion of the demands as laid before the Lower House has been thrown out, and if the Federal Government want to go on with it they can put that part of it (the rejected part and only that part) before the Upper House.

6896. In which case, if the Upper House sustains them, the matter is settled by a Joint Session?—Yes.

Lord Irwin.

6897. Have we not been discussing really two points?—Yes, this is a different one.

Lord Irwin.] There was a point out of which this conversation arose, put by Mr. Joshi, as to what would happen if an Income Tax Bill was rejected by the Lower House, and then a further point as to the range of the Governor-General's possible action under paragraph 42, his special responsibilities. As regards the first, I should have thought that, presumably, the Income Tax law will have been introduced by the responsible Finance Member, and the Government will have been defeated in the usual fashion, and it will be for the Finance Member and his Ministry to decide what action they will take upon that; if they shall demand a vote of confidence, or what they shall do. If the connection between the Bill and his special responsibilities is sufficiently close, the Governor-General could proceed under paragraph 42.

Lord Eustace Percy.

6898. On the first point, under paragraph 48 it could still be reintroduced into the Upper House?—Paragraph 48 is a third point. It is appropriation.

Lord Rankeillour.

6899. I think the demands under paragraph 48 are appropriations; they are not demands for taxes?—No.

6900. It does not say under paragraph 48 or 47 that a Resolution for a new tax may be introduced in the Upper Chamber. It may say so somewhere else, but it does not say so in either of those paragraphs?—Paragraphs 47 and 48 have no relevance to legislation at all.

6901. The procedure before legislation is grants and supply?—There is not in

India any Appropriation Bill. (Sir Malcolm Hailey.) If you had a balanced budget your demands for grants would be voted within the budget, and they would be under no necessity then of introducing any legislation at all either to implement the budget, or to secure fresh money.

6902. No confirming Bill of any kind?—No.

Marquess of Salisbury.

6903. Is that really intended? That is quite different from the procedure in England?—That is the procedure we have adopted hitherto, and there is nothing in the White Paper which would make us alter that procedure. On a balanced budget there is no need for legislation; all that is required are votes of supply.

Mr. Ranganaswami Iyenger.

6904. As a matter of fact, there are annual Finance Bills now introduced in the Legislative Assembly by which certain measures of taxation are expressly put down as annual in order to enable the Assembly to discuss the budget?—That was convention only, and it is no doubt very convenient, but it is not necessary to repeat a convention as a Constitutional requirement.

(After a short Adjournment.)

Sir H. Gidney.

6905. My Lord Chairman, I would like to ask a few questions. Sir Findlater, would you tell me, in the event of a vote of no confidence being carried in the Lower Federal Chamber, the Ministry resigning, and the Governor-General not able to form a Ministry, would that indicate that both Houses, the Upper and the Lower Houses, would have to dissolve?—(Sir Findlater Stewart.) It would, of course, be for the Governor-General to decide whether it was a case for dissolving both Chambers or either of them.

6906. Could you dissolve one and not the other with a joint Ministry?—I think you could. There is no obligation to dissolve both.

6907. But if there is a joint Ministry, how could you dissolve one and retain the Minister of one House and not of

the other?—You would not necessarily retain them as Ministers.

6908. In paragraph 12, on page 40, of the White Paper, it states that the Governor-General is to be given three Councillors. Would it be acceptable if to one of these Councillors was given the Portfolio of Protection, safeguarding the rights of minorities?

*Sir Austen Chamberlain.*] My Lord Chairman, I am sure Sir Henry will forgive me, but is not that a question of policy, which must be reserved until the Secretary of State is in the Chair?

*Sir Henry Gidney.*] Very well, if that is so. In another part, in paragraph 24, on page 43, it is stated that the Upper House will have a life of seven years, and the Lower House a life of five years. Is there any reason why there should be this difference in the lives of the Houses, especially in view of the fact that there will be a joint Ministry?

*Chairman.*] I think these questions of policy had better be reserved until the Secretary of State resumes the Chair.

*Sir Henry Gidney.*] Then I will not ask any more questions; I will reserve them for the Secretary of State.

*Sir Tej Bahadur Sapru.*

6909. I have a certain number of questions relating to policy to put to the Secretary of State, which I will reserve, but I am quite willing to ask technical questions of Sir Malcolm Hailey and Sir Findlater Stewart, just to explain them. I am not going to raise any question of policy just now. Will you kindly turn to Proposal 12? There you say: "In the administration of these Reserved Departments, the Governor-General will be assisted by not more than three Counsellors who will be appointed by the Governor-General, and whose salaries and conditions of service will be prescribed by Order in Council." The first question that I wish to put to you is: In the selection of these Counsellors, the choice of the Governor-General will be absolutely unrestricted. Is that not so?—Yes.

6910. He is not bound to take any man holding an appointment under the Crown in India or in England?—No.

6911. He may?—He may.

6912. And he may select all of them or any of them, or two of them, from

among the Members of the Legislature?—Yes.

6913. Then you say: "Those salaries and conditions of service will be prescribed by Order in Council." Do you propose to give the Indian Legislature any voice in the fixing of the salaries of these three Counsellors?—I understand not. They are to be fixed by Order in Council on the advice of the Governor-General—by Order in Council issued by the Crown here.

*Sir Austen Chamberlain.*

6914. That must be constitutionally on the advice of the Secretary of State?—Yes.

*Sir Tej Bahadur Sapru.*

6915. Can you kindly tell us whether you have any proposals as to the scale of salaries of these Counsellors? Will they be the same as those of the Members of the Executive Council, or something less?—We have not considered that at all.

6916. If you will kindly turn to paragraph 25, there you say: "A Member of the Council of Ministers will have the right to speak, but not to vote, in the Chamber of which he is not a Member. A Counsellor will be *ex-officio* an additional Member of both Chambers for all purposes, except the right of voting."

I suppose this is subject to the explanation given in the morning, that if a Counsellor is appointed from among the Members of the Legislative Assembly, he will become an official, and, therefore, will cease to exercise his right of voting?—Yes.

6917. Now will you come to Proposal 34 (a), and will you kindly tell us—

*Chairman.*] You remember we agreed to reserve Nos. 26 to 37.

*Sir Tej Bahadur Sapru.*] I am only putting one question which comes in here with regard to that.

*Chairman.*] Very well.

*Sir Tej Bahadur Sapru.*

6918. I am not raising any question with regard to those matters which your Lordship wanted to be reserved. "(a) In the case of elected Members or of Members nominated by the Governor-General,



the holding of any office of profit under the Crown other than that of Minister." Will this rule or the principle of this rule apply to those lent officers who are serving in the Indian States—that is to say, will it be open to the Indian States to nominate British or Indian lent officers?—I think the Secretary of State would like to consider that matter further.

Sir Tej Bahadur Sapru.] Very well, I will reserve that. Now will you kindly turn to paragraph 36: "Subject to the rules and Standing Orders affecting the Chamber, there will be freedom of speech in both Chambers of the Federal Legislature."

(The Secretary of State resumes the Witness Chair.)

Sir Tej Bahadur Sapru.

6919. May I dispose of this question that I was just commencing: Do you see any objection to the Indian Legislature or the Provincial Legislature in future passing legislation to define their own privileges?—I myself should say not.

6920. You see no objection?—No.

Major Attlee.

6921. Mr. Secretary of State, when we broke off, I was asking you the reasons for the size of the Legislature, and you gave me various reasons. I now want to ask as to why you think it necessary to have two Chambers or two Houses at the Centre?—(Sir Samuel Hoare.) I think there are mainly two reasons in our minds: One: We feel that if the Federal Legislature is created upon the lines of the White Paper, a Second Chamber is almost inevitable. We feel that the more conservative elements, rightly or wrongly, both here and in India, will expect to have the protection of a Second Chamber; and, secondly, we think that the Indian States would almost certainly insist upon a Second Chamber, if the First Chamber is constituted in the kind of way in which it is constituted in the White Paper.

6922. But as those two Chambers are to have equal powers, and in the event of their disagreeing, are to have a joint Session, does not it really turn upon the question of the composition of the Chamber—that, in effect, what you are doing is really merely giving a certain conservative loading to your Chamber

without any of the usual reasons for a Second Chamber, that is to say, in a Federation representing the Federal Units on a different composition?—My own view is that it is inherent in the kind of proposals that we have made in the White Paper that there should be two Chambers. If, however, we had advanced on the alternative line, namely, of having a small expert body to deal with the limited number of Federal subjects, then I agree, assuming the representation was reasonable between the Indian States and British India, the case for a Second Chamber would be much less strong.

6923. Do you conceive in the Indian Central Legislature the development of a Parliamentary system of Government with Parties, and the Ministry, dependent upon the vote of the House from day to day?—Yes, up to a point, remembering always the conditions that differentiate the state of affairs in India from the state of affairs here, namely, the fact that the Indian States will have an effective representation in the Government and in the Legislature, and also that the representation of minorities has to be assured.

6924. But your conception is of something that is going to develop, and your idea of its future development is definitely on the strictly Parliamentary line—that is to say, on the British model. Is that so?—Assuming that we have the kind of Chambers at the Federal Centre that are contemplated in the White Paper. If we had advanced on the other line, namely, the line of the small expert body at the Centre, then I think the development would not be upon British Parliamentary lines at all.

6925. That is the point I wanted to get out, that your composition of the two Chambers is conditioned by your idea of the kind of Constitution you want to see at the Centre. The provision which you have made for representation and your two Chambers, one of them directly elected, is conditioned by the fact that you have a conception of the Parliamentary model being instituted in the Central Government?—No. I think I would begin the other way round and say, assuming the kind of Constitution that we propose for the two Federal Centres, then I think development will be more on the lines of the British Parlia-

mentary practice than it would be if the body was a small expert body.

6926. Is that the reason why, for instance, you have directly elected Members at the Centre, because of the need for working on a Parliamentary model?—No, much more, because in a question of that kind we have felt it necessary to take into account the very strong opinion expressed on the subject in British India. I would say myself—indeed, I have never made any secret of my views at any of our former discussions, that if we had been working on a clean sheet, the kind of expert body, not constituted upon a basis of direct election, would seem to me to be much more suitable to the due performance of the Federal functions than two Chambers, one of them elected by direct election, constituted much more upon the lines of British Parliamentary institutions here.

6927. But a system of indirect election does not imply, does it, an expert body at the Centre?—No, perhaps it does necessarily do so, but it seemed to me to be very much a feature of the alternative kind of Centre. May I explain myself a little bit further? I think you can do one of two things: You can set up what you regard as the ideal organs for performing the Federal duties, and you can do that without taking into account issues of political expediency at all. On the other hand, you can go upon the line of trying to make effective Chambers in the Centre, but of trying to carry with you big bodies of political opinion in India. In all our former discussions upon the question of direct or indirect election, I have always argued deliberately in favour of indirect election, but I have never been able yet to see how to surmount the very formidable obstacle in the way of indirect election that is shown by the very definite feeling in favour of direct election in British-India.

Major *Cadogan*.] What were the reasons given, Secretary of State, for that predilection in favour of direct election?

Sir *Hari Singh Gour*.] They have been given by the Simon Commission.

Major *Cadogan*.

6928. We realise there was that very strong feeling in favour of direct election, but what were the reasons for it?—

I think the Indian Delegates will be able to give an answer to that question much better than I can. I would say—they will correct me, if I am misinterpreting their views—

Sir *Austen Chamberlain*.] My Lord Chairman, I am only anxious to know when is the proper time to discuss or examine questions. I had supposed that the kind of issue which is now being raised was reserved for discussion when we came to the franchise. I do not in the least wish to interfere with the liberty of the other Members, but if this is the proper time to take it and not on the franchise issue, then I hope that some of us who have been under a misapprehension may have an opportunity of putting some further questions to the Secretary of State. I would only like to have guidance, my Lord Chairman (this is very important), as to what is the best time, according to the programme that you have submitted to us, for us to discuss it.

Major *Attlee*.

6929. Might I say on that, that when you laid that down, I indicated that there were certain franchise matters which could not be separated from the kind of Constitution you want at the Centre. While I did not want to pursue the matter of the method of election, and so forth, I think it is impossible when you are considering what kind of Constitution to have at the Centre not to consider the method of election, because it goes to the whole root of the matter?—I would have thought that probably the wisest course was to deal with the kind of issues that Major Attlee is raising rather in a general manner and with their background of the bigger Constitutional issues. By that I mean, that Major Attlee has raised this very important issue as to what kind of organs are most suited to the Federal duties at the Centre. There the issue is a simple one between the ideal kind of arrangement that we should create, if we had to consider nobody else's feelings, and the other kind of Centre organs that we should create, if we wished, to take into account public opinion in India.

Sir *Austen Chamberlain*.

6930. I beg the Secretary of State's pardon, but I think there is a third

alternative which I am very anxious to discuss with you, which is germane to this issue, if this is the proper time to raise it. All I submit, my Lord Chairman, is—I do not want in the least to hamper Major Attlee—that you will be good enough to give me another opportunity, since this issue is raised now of putting some questions to the Secretary of State?—I do not at all disagree with Sir Austen. I did not wish in any way to exclude the further alternative as to whether in our scheme it is possible to substitute one form of election for another.

Earl Peel.

6931. I am intervening here, because with reference to the question asked by Major Cadogan, I remember very clearly in previous discussions there was a very strong opinion expressed that British-India having already the Central Assembly directly elected, they did not want to have, as it were, that Assembly to be abolished and nothing else to take its place in the Federal Government, and was it not very largely feelings of that kind that prompted the representatives of British-India to press very strongly for a directly representative Chamber as one of the Chambers at least in the Central Government?—I should think that was one of the reasons.

Major Cadogan.] I understand we can raise this question when these proposals for the franchise are discussed before the Committee?

Chairman.] That is so. It seems to me that a hard and fast rule cannot be laid down, and with the general intention before us, I can only leave it to the judgment of individual Members of the Committee.

Sir Austen Chamberlain.] The point I want to put is not a point of detail; it is really a fundamental point in the Constitution.

Chairman.] I suggest Sir Austen should put it at the end of this Section.

Sir Austen Chamberlain.] Thank you.

Major Cadogan.] My Lord Chairman, you, no doubt, rightly pulled me up when I was going to ask a question on the Constitution of the Assembly. My question was concerned with the very question that Major Attlee raised just

now, so I hope I shall have the opportunity of raising it on another occasion.

Chairman.] Certainly.

Archbishop of Canterbury.] Is there not a clear distinction between the broad Constitutional issues, though they involve the franchise and details as to the franchise itself? That is the proper thing to reserve, but these Constitutional questions, even if they involve the franchise, are pertinent to this matter.

Major Attlee.

6932. The further point that I wish to raise is this, that given the ideal of a Parliamentary system at the Centre, is it really possible to conceive our Party Government, when one portion of the Assembly is drawn from the directly elected persons, and the other consists of nominees of States? Does not the Parliamentary system depend for its validity on the contact between the Member and his constituents?—I am not sure that I would go so far as to say, yes, to Major Attlee's second question. I am inclined to think, although I admit it is very dangerous to make any kind of prophecy, that political development in India will not be in two distinctive lines with British-India, on the one hand, and with Indian States, on the other. I believe that there will be a tendency of grouping for the purposes of political questions between Provinces and States very likely contiguous to them. If that is the case, I can see a much greater cohesion between the Ministers from British-India and the Ministers from the Indian States than there could be if there was an impossible gulf between the two.

Mr. M. R. Jayaker.

6933. Then you do contemplate State members in the Central Legislature entering the political Parties of India?—I would not go so far as to say that. I am assuming a future development in which, I believe, the questions at issue will be questions that will not divide British-India, on the one hand, and the Indian States, on the other, but they really will be All-India questions that will affect groups of States and groups of Provinces, very likely, in much the same way.

6934. What I was going to ask you was, does your scheme envisage the possibility, however distant it may be, of State Members entering political Parties in India. There is nothing in the scheme of the White Paper preventing it?—There is nothing in the scheme of the White Paper preventing it.

Sir A. P. Patro.

6935. We can visualise it from the other parts of the White Paper?—There is nothing in the White Paper preventing it, and I would not like to express an opinion at all as to how those developments will take place, except to say that I believe more and more individual Indian States will find that their interests are very much the same, as, perhaps, Provinces that adjoin them, and that, if so, the cleavage of opinion will be much more regional than between British-India, on the one hand, and the Indian States on the other.

Major Attlee.

6936. Arising out of that, if you have your Parties, either parties as are formed in the Chamber, or parties that have their roots in the country—if you have the Second Chamber, is there not a danger, if you are going to have Parties of which States are to be constituent parts, that, in effect, a large State might influence those whom you say have interests around it, and that, in effect, you will have a State Party with the persons supported by the money from the State forming a *bloc* in your Legislature?—I should not like to be drawn into a further prophecy upon points of that kind. I feel that even what I have said may be open to certain misrepresentations. I would much rather leave the future free, and to leave it free with my own belief that, as I say, divisions are going to be much more regional than they are going to be between one type of Minister and another type of Minister.

6937. You see, Secretary of State, the point I want to make is that we should not form a Legislature on a particular basis which would only fit a quite impossible Constitutional situation. The next point I would like to ask you is with regard to the position of Ministers. You are, in effect, going to have a dyarchy in the Centre. On page 13 you

say that Ministers and the advisers of the Reserved Departments are going to be kept in the closest contact and without blurring the line that shall divide the two. Is not that precisely what was tried in the Provincial dyarchy, and did not the Simon Commission, at all events, as we see on page 213 of Volume I, decide that it was quite impossible to prevent that line being blurred?—There is a very real distinction between the two, and I think it would be better if I asked Sir Malcolm Hailey to answer this question from his own experience in the field of Provincial administration. (Sir Malcolm Hailey.) Our difficulty arising from the existence of dyarchy in the Provinces was due to the fact that we were really, in effect, on both sides dealing with one common field of administration, that is to say, that everything that was done on the transferred side was liable to affect us on the reserved side, and vice versa, and it was because you had two diverse authorities dealing with the same field that the difficulties of dyarchy arose. But, in the contemplated Federal Government, you will have a complete field under the Ministers and an entirely separated field in the Reserved Departments; that is to say, that Defence is, in effect, a self-contained subject which impinges very little on the ordinary subjects of Civil administration, and the same with external affairs. They have their relations, of course, but their relations are in no way as close as were the relations between the reserved side and the transferred side in a local Government.

6938. May I suggest to you, that the all-important thing that brings them together, and which is the vital thing in a Provincial Constitution, is the fact that both sides depend upon the same purse; that where you had reserved Services and had the first claim upon the purse there was a tendency to attack those in the interests of the transferred side. Will you not have precisely the same thing at the Centre with the criticism you already have on the Army directed from the unreserved side?—You may have attack at the time of the division of money, but you will not have a blurring of administration.

6939. Is it possible to separate entirely Military administration from; let us say,

that of the Railways ?—I think they only come into relation in the time of mobilisation, and the like.

6940. Can Foreign Policy be kept entirely separate from Tariffs, and have nothing to do with each other ?—(Sir Samuel Hoare.) The answer to Major Attlee is that, no doubt, it can be. At the same time, there is a general field that is fairly easily defined of foreign politics, and there is another general field of Tariff institutions. We have got very much the same position to-day. Under the Fiscal Autonomy Convention, as Major Attlee knows, we do not intervene here in fiscal questions when the Governor-General and the Indian Legislature are agreed, but it may well be that there are cases that, whilst primarily fiscal questions, are ultimately questions of foreign and Imperial politics. In that case, the Imperial Government, obviously, has a *locus standi* and has to make its voice heard. In actual practice, I think we have been able to respect both sides of the position, and we have been able to work the arrangement fairly satisfactorily. I do not foresee substantially greater difficulties in the future than might arise now.

6941. Do I take it that there will be any opportunity of discussion by the Central Legislature of Foreign Affairs ?—Yes, within the terms of the Rules of Business that are laid down.

6942. Because does not amount you spend on your Defence largely depend upon your Foreign policy ?—Not very much in India.

6943. I suppose you have the question of Army expenditure coming up ; the Army Vote has got to be defended. Has that not got to be defended with a view to the external relations of India ?—But then I do not quite see to what conclusion Major Attlee is leading up. It points, surely, to keeping both the Departments in the Reserved side.

6944. My question is really as to how far you are going to get an informed public opinion in the Central Legislature on Foreign Affairs, and on the Army, where they are strictly Reserved, because, if you do not, I see a trouble over your Indian Budget with regard to money wanted for Defence ?—We have assumed that the Viceroy should discuss expenditure upon Defence with his Ministers before the Budget is intro-

duced. We assume also that there should be a debate upon Defence at some period of the year. The opportunities for forming public opinion will, therefore, be just as great in one sense as they are now ; indeed, they will be greater if the Governor takes the Ministers into his confidence before he introduces his Budget.

Archbishop of *Canterbury*.

6945. May I just intervene on that point ? I suppose, according to 52 (b), there may be discussions on these foreign relations provided the Governor-General gives his consent ?—Yes.

6946. It would be much better if that were put the other way round. Instead of putting "prohibiting," it should be "subject to the consent of the Governor-General, discussion may be," and so on. However, that is a detail ?—I think that is a matter of argument.

Archbishop of *Canterbury*.] Yes. It is provided there that discussion is possible provided that the Governor General in his discretion feels that it would be opportune to have it.

Marquess of *Salisbury*.

6947. But the point of Major Attlee's questions, was, I understand, that if, as is conceded, the Legislature discusses Foreign policy and Defence and the money which is required for those Services, then there will be the same risk of blurring between the two Reserved and the Transferred Services, as has been found unworkable under the present Constitution ?—I do not know whether that is Major Attlee's view, or whether it is not. It is not my view at all.

Major *Attlee*.

6948. The point that we had discussed this morning on that was : What should be the attitude of the Ministers ? You may be optimistic and say that the Ministers will agree with the Governor-General. Perhaps, they will not. The Joint Select Committee's view, our predecessors on the Montagu-Chelmsford Reforms on a similar state of things, was that the Members of the Executive Council and the Ministers could disapprove of each others proposals, and need not support their colleagues, either

by voice or by vote. Is that going to happen in the Central Legislature? Is that going to be the relationship of Ministers on the one hand, and representatives of the Reserved Departments, on the other?—I should hope not. That is getting back very much to a series of questions we discussed this morning, is it not, when I thought we had dealt with those questions at some length this morning, as to what should happen in the event of the Governor-General not taking a Minister or his Ministers with him, I have got nothing further to add to what I said this morning.

6949 I am not really on what will happen. I am trying to look at the thing, as a whole, and imagine the Constitution working. I wanted to be quite clear as to how it differed in any way from a dyarchy that we saw working in the Provinces. I do not see any very great difference?—Sir Malcolm Hailey has just made what I thought was a complete answer to that, but it is a matter of opinion how much importance you attach to it.

6950. One further question, and that is with regard to the Reserved subjects. You said that you could only conceive of the Army and Defence being eventually a transferred subject when you have complete Indianisation. Will there be any express provision for Indianisation in the Constitution?—No, it does not come into the Constitution at all.

6951. It has not been considered as to whether there should be any definite provision?—It does not appear to me to be susceptible of Constitutional definition. What we have contemplated is that we might refer to it in the Instructions to the Governor-General. May I just amplify that, Major Attlee? The reason of my answer is not that I am unsympathetic to a programme of Indianisation, but that no one in the world, so far as I can see, can effectively define how long a process of that kind is going to take. It must depend upon the actual results from year to year. After all, the only test is the safety of India, and it must be judged as the experiment proceeds how quickly you can proceed with it without endangering the security of India.

6952. Could you provide for some kind of annual report showing the progress made?—That is a matter of detailed administration that we could consider.

6953. Of course, this is a point on which Indian opinion is very insistent?—Yes.

6954. Would you say that Foreign Affairs must remain Reserved as long as Defence is a Reserved subject, or is there any possibility of its being transferred sooner?—I should not like to give an answer, I think, to a question of that kind; I had not contemplated the question at all. It is so difficult to say how the developments will take place, how long Indianisation takes, for instance, and so on.

6955. You could not say what are the conditions which must be fulfilled before the control of Foreign Affairs could be transferred?—I think it is very difficult. I will think over the question, that I certainly could not give an answer now.

Marquess of Salisbury.] I hope the Secretary of State will not think that any large body of opinion will press him to define when Foreign Affairs can be entrusted entirely to the Federal Legislature. I do not know whether Major Attlee intended to suggest it.

Major Attlee.] I do not say that the Secretary of State must not assume that everybody thinks he is going too far. That is all I say.

Sir Austen Chamberlain.] I only want to add to the observations which have passed between Lord Salisbury and Major Attlee, that in any future which I can conceive, the foreign relations of India will involve this country, and this country must have a say in its own affairs.

Witness.] Apart from any question of difference of opinion, I think Major Attlee will find, when he thinks over the question further, that it is extraordinarily difficult to assign dates and to define conditions here and now. We are basing our proposals upon a foundation of organic growth, and it is extraordinarily difficult to place times and seasons and to define exactly when such-and-such a thing will or can happen.

Major Attlee.] Yes. I only want to see the shoot which grows in the Spring.

Mr. Morgan Jones.

6956. Sir Samuel Hoare, would I be right if I suggested that these White Paper proposals arise, in the first place,

anyhow, from promises and pledges made by British Ministers?—I think, certainly, promises and pledges, whether explicit or implicit, enter a great deal into these proposals; but there are other considerations that enter into these proposals as well, and I would be prepared to defend a great many of these proposals upon their merits, quite apart from any past obligations.

6957. When the pledges were made, were these other considerations cited at the time?—I do not know at all about that.

Mr. *Morgan Jones*.] Might I ask if, when, for instance, the Duke of Connaught spoke on behalf of the British Government, there were any conditions cited and spoken of India receiving Home Rule or Dominion Home Rule on the same terms as other Dominions?

Sir *Austen Chamberlain*.] Had we not better have His Royal Highness's exact words, if any question is to be based upon them?

Mr. *Morgan Jones*.] I have cited them already twice, Sir Austen.

Sir *Austen Chamberlain*.] I think we ought to have them again.

Mr. *Morgan Jones*.

6958. I am sorry I cannot put my hand on that actual quotation, and so I will not press that one, my Lord. I will take another which I can cite. Speaking at the last meeting of the First Round Table Conference, the Prime Minister used these words: "What have we been doing? Pledge after pledge has been given to India that the British Raj was there not for perpetual domination. Why did we put facilities for education at your disposal? Why did we put in your hands the text-books from which we draw political inspiration, if we meant that the people of India should for ever be silent and negative subordinates to our rule? Why have our Queens and our Kings given you pledges? Why have our Viceroy's given you pledges? Why has our Parliament given you pledges?" and that succeeds a whole page, if not nearly two pages, elaborating the point as to the repeated pledges that have been made by Ministers on behalf of Parliament. Now the question I want to ask Sir Samuel is this: Do you advance

these White Paper proposals as a fulfilment of those pledges?—Yes, certainly.

Lord *Rankeillour*.] Arising out of that, I think I must just ask this: Has there been any pledge given by Parliament except that contained in the Act of 1919?

Mr. *Rangaswami Iyenger*.] The White Paper Resolution.

Witness.] I have always thought about all these pledges that their strength is much more moral and implicit than it is specific. I do not mean by that that they ought not to be carried out in the full spirit in which they were made, but my difficulty when I am asked to define my relations to a particular pledge is this, that almost always that particular pledge is in general terms. The pledges that Mr. Morgan Jones is now quoting are in general terms. I believe that in the White Paper proposals, we are acting fully within the spirit of all those past pledges, and that we are interpreting those pledges in the best possible way in the circumstances with which we are faced.

Mr. *Morgan Jones*.] I have just put my hand upon the quotation which I wanted from the Duke of Connaught; I will read it: "For years, it may be for generations, patriotic and loyal Indians have dreamed of Swaraj for their Motherland. To-day you have the beginnings of Swaraj (self-government) within my Empire, and widest scope and ample opportunity for progress to the liberty which my other Dominions enjoy." That is the quotation which I referred to.

Sir *Austen Chamberlain*.] That shows the importance of having the exact words, if I may say so.

Mr. *Morgan Jones*.] I quite agree; and perhaps Sir Austen will point out to me in what sense I have departed from the spirit of those words?

Sir *Austen Chamberlain*.] No; I will not argue. I am quite satisfied that Mr. Morgan Jones has given us the exact words. I can only say I could not recognise them in his paraphrase, but that may have been my fault.

Mr. *Morgan Jones*.

6959. I agree. Now the next point, Sir Samuel, is this: Am I right or am I wrong in suggesting that these proposals

fall short of what is generally understood to be implied by the words "Dominion Self-government"?—I should say certainly, if you take the Statute of Westminster as the test of Dominion Self-government.

*Sir Tej Bahadur Sapru.*

6960. But, Sir Samuel, may I ask you one question at this stage? Take the Dominions as they were up to the date when the Statute of Westminster was passed: what would be your reply?—My reply would be that the conditions in India differ in certain definite respects from the conditions in any of the Dominions, notably in the field of Defence, and on that any Constitutional Act must take account of these differences of conditions. What we are trying to do in the White Paper is to take account of these differences of conditions and to give India a very wide opportunity for future development.

*Sir Hari Singh Gour.*

6961. My Lord Chairman, with reference to what Sir Tej Bahadur Sapru has said, may I inquire whether the Statute of Westminster created and conferred a new status upon the Dominions, and did not merely recognise their existing status, as was stated by the Balfour Committee?—That may or may not be so. In any case, it does not affect the answer that I have just given.

*Mr. Morgan Jones.*

6962. The point which I was leading to was this, Sir Samuel. These public declarations to which I have just referred were made by responsible people, all of them. Do you not regard it as of prime importance that the Government should not in any way lay itself open to the charge of failing to observe its undertakings so publicly expressed?—Certainly; and I claim that we are in no way open to a charge of that kind.

6963. But I thought you just told me. Sir Samuel, that these White Paper proposals do in fact fall short of Dominion Home Rule?—I did not understand from Mr. Morgan Jones that the Duke of Connaught's pledge was in the year 1933 that India was to receive Dominion status, according to the interpretation of the Statute of Westminster.

6964. I am merely on the point at the moment as to whether the pledge has been made. I am not concerned now so much with whether it is to be implemented. May I repeat my point, my Lord Chairman: As to whether Sir Samuel would regard these White Paper proposals as being a fulfilment of the pledge of Dominion Home Rule?—I have given my answer to that question. There is no point in my repeating my answer.

*Mr. M. R. Jayaker.*

6965. May I ask one question? Does the Secretary of State believe that the White Paper proposals will develop India for Dominion status unless they are regarded as transitional proposals?—I think they have in them the seeds of growth.

6966. Into Dominion status?—Certainly, assuming that the distinctive conditions that separate India from the rest of the Dominions are eventually removed.

*Sir Austen Chamberlain.*

6967. May I interpolate a question? Has any time been set in any Ministerial pledge within which the full ideal must be realised?—Not so far as I know; and I should be very much surprised if any Minister had made any such statement, for the obvious reason that we are dealing with uncertain factors, and nobody on earth can say here and now when the precedent conditions for such a state of affairs will have been satisfied.

*Mr. M. R. Jayaker.*] Yet the board interpretation of these pledges must necessarily mean that the ideal will be reached within a reasonable period and not in eternity.

*Sir Austen Chamberlain.*

6968. As I understand the pledge it is merely that we shall do nothing inconsistent with that, and shall at such times, and in such measure as we consider right, advance towards that goal. Would the Secretary of State agree with that?—Yes, with this one addition: and in the meanwhile remove wherever we are able the obstacles that stand in the way of future advance.

*Sir Austen Chamberlain.*] I accept that.

*Viscount Burnham.*] Is it not laid down in the Preamble to the Act of 1919 that



"the action of Parliament...must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility." Is not that a condition ?

Mr. Rangaswami Iyenger.

6969. May I take it that those Ministers who made these pronouncements did not look upon it either as a dream, or as a means of putting off to some indeterminate future this definite ideal of Dominion status ?—I should think it is certainly so.

Archbishop of *Canterbury*.

6970. Is it pertinent to ask whether there is any uniform Dominion Constitution at all ?—There is no uniform Constitution. Obviously one Constitution differs from another. When it comes to a question of status I think I would not be prepared to express an opinion.

Archbishop of *Canterbury*.] But status is one thing—a very vague term, speaking generally, of position, but something quite different from any particular form of Constitution. It does not follow that because India may not have the same Constitution as other Dominions it necessarily is to be debarred from that general position which is called status.

Marquess of *Salisbury*.] Dominion status, you mean ?

Archbishop of *Canterbury*.] Yes.

Marquess of *Salisbury*.] No one would say the White Paper had any resemblance to Dominion status, of course.

Mr. Rangaswami Iyenger.] That is true.

Sir Tej Bahadur Sapru.] That is true.

Lord Rankeillour.] Are not the words of the Preamble that have been quoted "with a view to the progressive realisation of responsible government in British India as an integral part of the Empire." That does not imply necessarily Dominion status ?

Sir Tej Bahadur Sapru.] May I point out to you, Sir Samuel, that the interpretation suggested by Lord Rankeillour just now was put by Sir Malcolm Hailey in the Legislative Assembly, and was expressly repudiated by Lord Irwin in his

announcement, and I am willing to quote that.

Marquess of *Reading*.] If that is to be inquired into you must take into account that there was a debate on the term used, and the Prime Minister definitely stated, and wrote a letter to Mr. Baldwin, that the use of the term "Dominion status" did not involve any change of policy. You must take that into account.

Sir Tej Bahadur Sapru.

6971. I should like to take it along with what Lord Irwin, who was the Viceroy at the time, stated and declared to us, and I am going to quote it. The whole trouble arose because of that interpretation which was put by Sir Malcolm Hailey at that time in the Legislative Assembly. That is the beginning of the whole trouble ?—Could not we now get back to the proposals actually in the White Paper ?

Lord Irwin.] As my name has been taken in vain, it might be worth while to interject that my much discussed Declaration dealt entirely with the realm of ultimate purpose. It made no commitments whatever as to date, as I was careful to point out to Sir Tej Sapru.

Sir Tej Bahadur Sapru.] I never suggested that you or anyone committed himself to a date. That is a matter of argument as to what you mean by making those Declarations, but, for heaven's sake, I say, do not try to whittle down that Declaration as was attempted to be done in the Legislative Assembly. That has been the beginning of all the trouble in India, and if at this stage we are told that the Declaration only means responsible government and nothing more speaking for myself. I have nothing more to do with this Constitution.

Lord Rankeillour.] Those were the words of the Viceroy. They can be overruled by Parliament.

Sir Tej Bahadur Sapru.] We attach much more importance to the Declarations of the Sovereign and the Sovereign's representatives, and we refuse to be drawn into these hairsplitting distinctions between the Viceroy and the Parliament. We take our stand on the Declaration of the King.

Mr. *Morgan Jones*.] My question concerned the purpose rather than the date.

Marquess of *Salisbury*.

6972. Let there be no mistake. We do not admit any pledge except a conditional pledge ?—I should hope we will not get into a long controversy over terms. What I am interested in are the proposals actually in the White Paper.

Mr. *Morgan Jones*.

6973. I quite agree, only it is important that we should be quite clear that we are playing fair (if I may use the expression without offence) by the Indian people by carrying out, as far as we can within the limits of time, pledges we have made. That is the whole question ?—I honestly believe we are playing fair, within the framework of our proposals there are seeds of growth that, if the Constitution is reasonably worked on both sides, will lead to very great development in the future.

6974. I will not press that any further. On the question of the accession of the States might I ask you this question, as to whether you have considered setting a time limit by which time the States must indicate their accession or otherwise ?—We have often considered that proposal, and we have always turned it down for this very obvious reason. We cannot compel the States to come in if they do not wish to come in, nor can we compel them to agree to Instruments of Accession before they wish to agree to the Instruments of Accession, and it has seemed to me that the worst possible policy would be to appear to be putting a pistol at their heads when the whole basis of our proposals is founded upon the idea of free consent and free agreement. When I say that, it does not mean that we are not anxious that they should accede at the earliest possible date. We are anxious that they should accede at the earliest possible date, and we will try to do our best to smooth over the difficulties and to make their accession at a reasonably quick date. Further than that, I feel we cannot go, and, further than that, I think that it would be very unwise, in the interests of those who wish to see a Federation, to go.

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6975. Inasmuch as the States quite properly feel that they would like to see the whole picture before they take a decision, is it not equally fair that the other parts of India should like to know what their picture would be like vis-a-vis the States ?—I should think British India will know pretty well the picture when the Act is passed.

6976. They will not know how many States are coming in by a certain date, I mean ?—Yes, they will ; they know that the Federation will not take any effect until X number of Princes accede.

6977. They will know the minimum number but they will not know how many will actually come in beyond the 50 per cent ?—I would have thought that should not affect their view very much.

Sir *Tej Bahadur Sapru*.

6978. Would it not ?—Just tell me, Sir Tej, what is in your mind. I do not follow the point.

6979. Supposing we wait for about a year or two, and find that the Indian States are not ready to come in, or you cannot get 51 per cent. of the Indian States to come in, the position will be that we shall have gone back to the recommendations (more or less, I do not say precisely) of the Simon Commission. We shall have to have only Provincial autonomy and nothing more unless, of course, you then entertain any proposition with regard to change of opinion at the British Indian centre ?—But, Sir Tej, Mr. *Morgan Jones*' point was a somewhat different point, and it seems to me your difficulty would be equally great whether you have a time limit or whether you do not. How much better off will you be if you have a time limit, and you find at the end of that time limit a sufficient number of Princes have not acceded. You will be in exactly the same position as the position you have just described.

6980. No. I think then we shall ask you to alter the character of the Centre, irrespective of the Indian Princes, because we have never waived that claim ?—Here, of course, we are getting on to a rather wider issue, but I have always said myself, and I believe my view has represented the view of the Government generally, that if there was a long and indefinite period of delay obviously we

should have to consult together again in view of the then existing circumstances.

6981. You have no doubt said that, and in the White Paper there is that statement. I recognise that?—Yes.

Mr. *Zafrulla Khan*.

6982. May I make one suggestion, or put one question to the Secretary of State, arising out of the last matter referred to. We fully recognise that the States must come in of their free consent. We also recognise that it is no use trying to put any kind of pressure upon them to come in. We also recognise, if the period continues to be indefinite during which we do not know whether they are coming in or not, a new situation is then created which we must face, but could the Secretary of State give us some idea as to how long he would be prepared to wait for the coming, or not coming in, of the States, and what sort of period, roughly, would convince him that it is not worth while waiting now under these circumstances, and we must face the new situation?—I have always hesitated to make any estimate of years. If I prophesy too short a time everybody will say what a very foolish person I was. If I am cautious, and I give a more distant figure, then a great many people will say: "You are postponing these things indefinitely; it is quite obvious you do not want to take action." I cannot go further than say that as far as we are concerned we will remove every possible obstacle that we can remove, and we will do our utmost, assuming Parliament endorses these or any other proposals, to see that these proposals are put into effect at the earliest possible date.

Mr. *Zafrulla Khan*.] I cannot press you further.

Mr. *Morgan Jones*.

6983. Turning now to the question of the Legislature itself, as I understand it, the White Paper will expect the Governor-General himself to appoint the Minister who will carry the greatest majority in the House?—Yes.

6984. Does not Sir Samuel think that from the very outset it will be better that the Governor-General should invite that leading personage himself to

accept the responsibility of appointing his colleagues in the Cabinet as the case may be?—I would rather leave it to practice and usage. I am not biased against the kind of development that Mr. Morgan Jones foresees at all.

6985. But if such a man were invited to form his own administration, having regard to the fact that he would depend upon a majority in the Legislature, he would be more likely, would he not, to appoint representatives of the minority groups who would be prepared to co-operate with him and to work successfully with him than if Ministers were chosen by the Governor-General for him?—I think that may be so, and I think that may well be the line of development, but with so many uncertain factors, particularly with the uncertain factor arising from the need of seeing that the Princes are adequately represented and that the minorities are adequately represented in the Government, I would rather leave the picture a free and open picture, without trying to define the situation too rigidly.

6986. But you would contemplate, would you, that any Ministry formed should *ipso facto* be representative of the Princes and minority groups as well?—Yes.

6987. Will not that mean a somewhat heterogeneous kind of Ministry?—It is inherent in the whole system of All-India Federation.

6988. I wonder if you recall the occasion when I think Sir Tej Bahadur Sapru was discussing the question as to whether a Ministry should resign or not when a question relating specifically to the Provinces was before the Legislature, and the problem was as to whether a Ministry should resign, seeing that it had been defeated on a purely provincial problem by an aggregation of votes from the States and the Provinces. You remember the point?—I think the point was upon an exclusively British-India problem rather than an Indian problem.

6989. That is what I meant by Provinces?—Yes.

6990. Do you remember the suggestion which I ventured to make, that, instead of the Minister being called upon to resign upon a defeat of that sort, the Princes should not be expected to vote

upon purely British-India questions, and that, since the Princes had not voted, the Ministry should not be expected to resign?—Here again I think it is one of those difficult questions, the solution of which must be left to usage. That was why I said this morning that I preferred to leave questions of this kind to convention, rather than to definition and statutory enactment.

6991. Do you think it is a wise provision that the Governor-General should when he thinks fit preside over the meetings of the Ministry?—Yes, I do for more reasons than one. I think the reason to which I attach the greatest importance is that I do look to the Governor-General to bring together the two sides of the Ministry, namely, the Counsellors responsible for his Reserved Departments and the Ministers who are collectively responsible to the Legislature, and I believe the Governor-General will provide the most effective bridge between the two sides of the Government.

6992. But for the purpose of developing the idea of collective responsibility would not it be desirable that the Governor-General should absent himself from those Ministries and leave those problems to be decided by his Ministers, reserving to himself, of course, the powers which are reserved?—We have left the Governor-General free to preside or not as he thinks fit, and I think that is really the wise course. I would imagine myself that, at any rate in the early days of the constitution, and I daresay for some years to come, the Governor-General and the Governors will normally preside at their Cabinet meetings and that by doing so, as I said just now, they will make a bridge between the two sides of Government. That seems to me to be a very important duty imposed on them, particularly in the early days of the constitution. How the constitution will develop later, whether it will develop upon our lines, in which it is the Prime Minister only who presides, or not, I should not like here and now to say; but what I will say is that we put no obstacle in the way of development taking place on those lines

*Sir Tej Bahadur Sapru.*

6993. Is there anything in the White Paper to prevent the Ministers meeting together themselves and evolving their

own policy and then going to the Governor-General?—Obviously under the Constitution we do not control the informal acts of the Ministers. They are at liberty to meet together and discuss things as they like.

*Mr. Morgan Jones.*

6994. I take it, since this Ministry can be representative of the States and the other parts of British India as well, it is possible for one of the States representatives to become Prime Minister of All India?—Yes.

6995. I would like to ask one question in regard to what I might call a border problem. Suppose there is a State—first of all, let us assume a State which has acceded, which is contiguous with a part of British India, and there happens to be on that border, shall we say, a factory whose employees are in the territory of the State and in the territory of British India. Am I making myself clear?—Yes.

6996. Under this Constitution will it be possible for the Central Legislature to embark upon legislation dealing with the well-being of the inhabitants and workers in that factory who live in the States territory?—What does Mr. Morgan Jones mean by their well-being?

6997. Suppose health legislation, or labour legislation, or education?—Only to the extent that the State has surrendered the appropriate powers to the Federal Government.

*Mr. Morgan Jones.*] Shall we suppose one that has not surrendered them being contiguous, then do you contemplate that the body of people working in the same factory shall be subject to two sets of laws just because one set happened to be living in the unaccessed territory and the others in the British India territory?

*Mr. Zafarulla Khan.*] Is your supposed factory situate in British India or in the States?

*Mr. Morgan Jones.*

6998. I will suppose for the moment it is in British India?—If it is in British India it will obviously be subject to British India factory legislation.

6999. But the laws which govern the working hours of the men will apply to the men working in British India, but

not to the men working on the other side of the Border?—No, as far as I understand the position, a factory in British India would, in all respects, be subject to British India factory legislation.

Mr. *Morgan Jones*.] I think I follow.  
Sir *Tej Bahadur Sapru*.] That is so.

Mr. *M. R. Jayakar*.

7000. May I follow that point a little further? Supposing British Indian legislation requires maternity benefits to be given to the working women will that apply to those operatives who are resident in the Indian States, although working in a factory situated in British India?—Only so far as I understand the position, if the States have transferred such powers to the Federal Government. The whole basis of our Federal scheme is that we do not interfere in the internal management of the States except to the extent that they have surrendered powers to the Federal Government.

7001. Therefore, the case will be like this: Assuming the State has not surrendered that power to the Federal Government you will come across this anomaly, that a section of the operatives resident in British India will have maternity benefits accorded to them, while another section resident in an Indian State will have no such benefits, although all the operatives work in the same factory?—I do not see how you can expect not to have anomalies in the kind of conditions that we are contemplating. Whether an actual case of that kind is likely to arise or not I do not know.

Mr. *Morgan Jones*.

7002. May I put a case of a different sort from that I put a moment ago—one which appeals to us on these benches more particularly: the right to withhold his labour, the right to strike, to put it more bluntly. In British India that may be safeguarded: in the State it may not?—My answer is the same. The whole basis of this Federation is that we do not intervene in the internal affairs of the States, except to the extent that those internal affairs are affected either by paramountcy or by the transfer of the powers to the Federal Government. That is the whole basis of this scheme.

7003. You do not interfere in the State; I quite follow that. But if you look at page 15 of the Introduction I may perhaps explain how my question arises. It is paragraph 28: "It may be, however, that measures are proposed by the Federal Government, acting within its constitutional rights in relation to a Federal subject, or in relation to a subject not directly affecting the States at all, which, if pursued to a conclusion, would affect prejudicially rights of a State in relation to which that State had transferred no jurisdiction. Or, again, policies might be proposed or events arise in a Province which would tend to prejudice the rights of a neighbouring State." The point I had in mind was this: Would those particular words imply that since the State would argue that legislation to provide the right to strike would prejudicially affect their interests, therefore, the Federal Legislature may be forbidden by the Governor-General from embarking upon it?—I do not think we were contemplating a case of that kind at all.

7004. But it would be possible?—We are not contemplating the constant intervention of the Governor-General in the field of social legislation on the ground that a particular act of social reform might react badly in a particular State. That is not the kind of contingency we are contemplating.

Mr. *Morgan Jones*.] I am much obliged for that answer.

Marquess of *Reading*.

7005. May I ask one question on what you have said, Secretary of State? If subjects of an Indian State are working in a factory in British India subject to the British-Indian law, would they not, whilst they are working in the factory, be subject to the British-Indian law?—Yes: I am informed that they would.

Mr. *Morgan Jones*.] May I return to the observation of Lord Reading; I do not think he quite met my point.

Marquess of *Reading*.] May I say I was not attempting to meet the point? What I was trying to do was to clear some confusion which had arisen during the discussions by getting that point clear: that was all.

*Mr. Morgan Jones.*

7006. I ask Sir Samuel Hoare, though it is true that the same legislation will apply to employees either from the States or from British India, in so far as work inside a factory is concerned, when a strike takes place their domicile is in the States or in British India, and, therefore, must not two sets of laws necessarily apply?—I would not like to get into a legal argument on this point; I would have thought only one set of laws would apply in the factory.

7007. Yes, inside the factory, inside the building?—Yes.

7008. But suppose men were on strike, and, shall we say, picketing their fellows in the States, or picketing their fellows in British India. The law may permit it within British India; the law may not permit it within the State?—I think one cannot help anomalies of that kind in any Federation, and I think one might equally find anomalies of a different kind, but, none the less anomalies between one Province and another.

7009. I will not press that further. One more question, and I hope this is not contentious. Will Sir Samuel Hoare please explain to me, as I indicated I would ask him to do to-day, what is involved by these ecclesiastical matters in reserve?—I think it might be a good thing, my Lord Chairman, if I followed the course I adopted at the last Round Table Conference, and put in a short Note as to what we contemplate to be included under the term, "The Ecclesiastical Department." Short, however, of putting in this Note, I would say, generally speaking, in answer to Mr. Morgan Jones, that we contemplate a Department that will provide adequately for the spiritual ministrations of the Army and the British Services. Over and above this provision, there are, under existing conditions, certain chaplaincies and certain branches of expenditure, not at all big branches of expenditure, nor numerous chaplains, whose duties, it might be urged, are principally for the British population outside the British Army and the British Services. Obviously, we could not suddenly bring to an end ministrations of that kind, but we should aim our policy at restricting the Ecclesiastical Department specifically

to the British Services and the British Army, and in a space of time, we should reach that position. In the meanwhile there would be some of these quite small expenses that might go on for a period of time, but they would be expenses that would be coming to an end.

7010. But they would fall upon public funds of India?—As they do now.

7011. How much is involved, can you tell me?—Quite a few thousands a year, it would be, and a diminishing sum.

*Sir Abdur Rahim.*

7012. 30 lakhs?—But it is not 30 lakhs, in answer to Mr. Morgan Jones' question, Mr. Morgan Jones was asking the question how much of this expenditure is not exclusively for the Army and the British Services. My answer is that it is a very small sum.

*Sir N. N. Sircar.*

7013. The Secretary of State was asked to consider the case of a factory provision in India and men and women being residents of a neighbouring State and certain so-called perplexities and anomalies were pointed out to him. May I ask him whether those perplexities and anomalies do not exist now to-day if the facts given by Mr. Morgan Jones are assumed? Are we not in exactly the same position?—I should think in exactly the same position.

7014. May I take it that the Secretary of State will agree that, as regards the perplexities and anomalies, Federation or no Federation has nothing to do with it?—If Federation has anything to do with it, I would have thought that Federation would help to remove rather than to intensify anomalies of that kind by bringing people together.

*Earl of Derby.*

7015. Does not that anomaly occur almost every day on the Frontiers of the European Continent?—Everywhere.

*Dr. B. R. Ambedkar.*

7016. Arising out of the questions that were put by Mr. Morgan Jones regarding the pledges, you stated that no responsible statesman in this country has bound

himself to time and pace. Is that so?—Yes.

7017. But I think there is a general agreement that the ultimate goal of India's Constitution is to be Dominion status?—It has constantly been so stated.

7018. So that on the question of the ultimate goal, there is really no dispute?—That would be so, yes.

7019. Now what I want to ask you is this : In view of that, would you be prepared to put this in the Preamble to the Government of India Act, that the ultimate goal of India's Constitution would be Dominion status, leaving the question of the time and the pace to be determined by circumstances as they arise?—I do not think here and now I would like to give a pledge as to what is or is not put in the Preamble of an Act of Parliament. I, myself, am prejudiced against Preambles of Acts of Parliament, for reasons good or bad, and I would rather say neither yes nor no to Dr. Ambedkar's question. It is a point that ought to be considered by the Committee. I would not regard it as a question of principle, one way or the other ; I think it is essentially a matter for discussion. Upon the face of it. I am against these general declaration in Preambles.

7020. I want to say this, that this is not a point in dispute now, and, in view of the fact that it would have a reassuring effect on the Indian people, it would be desirable to have this embodied in the Preamble to the Government of India Act?—We must take note of what Dr. Ambedkar has said upon the point.

7021. Now the next question that I propose to ask you is with regard to the date of the Federation ; that in view of certain uncertain elements connected with the entry of the Princes into the Federation, it was not desirable to give a date for the inauguration of the Federation. Now the point that I propose to put to you is this : What would you say to a proposal like this—I am making it as my own : Supposing you started the Federation without waiting for the Princes, and had a nominated *bloc* appointed by the Viceroy or the Governor-General, it may be from officials or non-officials, it may be partly from officials and partly from non-officials, and then inaugurate your Federation, and then, as the Princes come in, eliminate the nominated *bloc* to

make room for such Princes as begin to come in? Have you any objection to a proposal of this sort?—Yes, I have several objections to it. I think that, perhaps, the strongest that occurs to me off-hand is that it is a completely new one. Here for the last three years we have been considering no other kind of Federation than an All-India Federation, with the Princes adequately represented in it.

7022. Quite true, but let me pursue this point?—May I just finish my answer? Secondly, I would say, even apart from that every formidable objection, an objection that would mean that we should have to start all our discussions over again, there is the further objection that I do not see what is to happen supposing when you had got your nominated *bloc*, the Princes then do not come into the Federation at all.

7023. I will put my next question. You want the Princes' representation as a stabilising element?—No ; more than that, Dr. Ambedkar ; I would not restrict myself to that at all. I want the Princes' accession for a number of reasons. I believe, quite apart from the stabilising effect of the Princes' representation, they can bring into the Government of India many very valuable influences.

7024. But my point is this. I am not making this suggestion as a permanent part of the Constitution. I am making the suggestion for the transitional period until the Princes come in. I am only trying to get over the difficulty that you would say would arise if the Princes do not make up their minds to come in a stated period. I am only trying to get over the difficulty as to date?—I quite see that. None the less, with the best will in the world, I do see the very formidable objections that I have just mentioned to a transitional plan of this kind.

Nawab Sir *Liaquat Hayat-Khan*.] In any case, if I might interject, had that not better be brought out when you meet again, in the event of such a contingency arising. It has been promised that when a contingency arises we meet again. I think a suggestion of that nature would be more appropriate then rather than now.

Sir *A. P. Patro*.] You will not be there when it comes.

*Witness.*] I have always thought that it is really a great mistake, particularly for those who are really interested in setting-up an All-India Federation, to concentrate upon setting up some kind of provisional government upon the assumption either that Federation is never coming into existence, or that Federation is only coming into existence in the very indefinite future. I believe myself that Members of the Committee and Indian Delegates who make proposals of that kind, although they do not wish the result of their proposals to be in the least what it will be, are really putting Federation further and further into the distance. I only go on repeating my own opinion, and I must rely upon my British and Indian friends to see that time after time it is not misrepresented by our enemies outside.

*Dr. B. R. Ambedkar.*] May I pursue this a little further. Do you think Federation is more important, or responsibility is more important?

*Sir Tej Bahadur Sapru.*

7025. Or neither?—I do not see the point of Dr. Ambedkar's question.

*Dr. B. R. Ambedkar.*

7026. My point is this : If you are not prepared to consider any alternative for a transitional period the conclusion is that there can be no responsibility unless there is Federation?—Really now Dr. Ambedkar is raising issues that we have been discussing for three years. For three years we have assumed in every discussion we have had that these proposals are based upon a foundation of All-India Federation, and I am not prepared to-day, after three years of these discussions, to reopen this question.

*Dr. B. R. Ambedkar.*] It is true. I do not want to pursue the matter. I am only suggesting an alternative for your consideration. I have two more questions to ask, but I do not know whether they will be within the ambit of the topic we are discussing. One is in relation to the qualifications of candidates for the Federal Upper Chamber.

*Archbishop of Canterbury.*] I think that would more properly come under franchise, would it not?

*Dr. B. R. Ambedkar.*] I would like to ask a question or two about financial safeguards.

*Archbishop of Canterbury.*] I think that clearly comes within finance.

*Dr. B. R. Ambedkar.*

7027. I want to ask a question or two about defence. You remember that the Sub-Committee on Defence in its report recommended that there should be a Military Council. I do not find any proposal in the White Paper dealing with that?—For the very good reason that we do not think that is a Constitutional proposal. It is an administrative proposal.

7028. Are you going to have it?—I have always myself been in favour of having in India something in the nature of the Committee of Imperial Defence here. I believe in actual practice it will be found to be necessary. It is very important to bring not only the Defence Ministers, and the Defence officials, in touch with Defence problems, but now that Defence covers so very wide a field of the life of a nation we have found here it is of great value to have a Committee of some kind in which the appropriate Ministers can be had in for specific discussions, and there is a strong body, not only of civil opinion, but also of military opinion in India that is in favour of the development of some such Committee as this, but essentially it is an administrative question rather than a question that can be dealt with in an Act of Parliament.

*Marquess of Salisbury.*

7029. It would be a purely advisory body, I suppose?—Yes, as the Committee of Imperial Defence is here.

*Sir Tej Bahadur Sapru.*

7030. Perhaps Sir Malcolm Hailey would be prepared to say is not there something of that kind now? There used to be something of that kind in the time of Lord Chelmsford. I attended some of the meetings?—I went into this in some detail with the gentleman who probably knows more about the Committee of Imperial Defence than anybody else, namely, Sir Maurice Hankey, and he and I both agreed that there was a line of very useful development to be followed



in India very much in the kind of way that we followed it here, namely, a very elastic body with certain members that practically always attend; other members had in for specific discussions, and the body always being as the Committee of Imperial Defence is here, an advisory and not an executive body.

Sir C. P. Ramaswami Aiyar.

7031. Are there not the beginnings of such a system now?—I think so. I think from the discussions I have had the Commander-in-Chief and the senior officers in future would find such a body very useful.

Sir Tej Bahadur Sapru.

7032. My impression is that at the time of Lord Chelmsford there was such a body, and Sir Malcolm Hailey used to go in as Finance Member?—(Sir *Malcolm Hailey*.) That was mainly for considering cases in connection with Waziristan, and the Chief of the General Staff and various other officers used to come in and discuss it with various officers of the Executive Council.

Sir Tej Bahadur Sapru.] That is my impression.

Dr. B. R. Ambedkar.

7033. With regard to the reserved subjects, you do not propose to make that part of the budget votable?—Sir *Samuel Hoare*.) That is so.

7034. That is opposed to the theory of Reserved Departments as it exists now under the Government of India Act?—It is based upon all our previous discussions, and I thought, although there was a good deal of discussion at the Round Table Conferences about certain features of Defence, there was a very general agreement upon the point that the monies should not be votable.

7035. Do you see any very great danger if the Legislative Assembly vote upon it, and the Viceroy had the power to certify, if he found any drastic cut was made?—I think it is better in a matter of this kind, in which the responsibility of the Viceroy is clear and unquestioned, that whilst opportunities should be given for discussion, the necessary expenditure should be non-votable.

Dr. B. R. Ambedkar.] The next question is with regard to the appointment of the commander-in-chief. I do not find any specific proposals dealing with that in the White Paper. Section 19 of the Government of India Act merely states that the commander-in-chief shall be appointed by His Majesty by Warrant under the Royal Sign Manual.

Sir Tej Bahadur Sapru.

7036. It is a curious accident that in the present Government of India Act there is no reference to the appointment of the commander-in-chief. All it does is to provide that if the commander-in-chief is a Member of the Executive Council he shall take precedence over the other Members of the Executive Council?—Whether there are provisions in the White Paper or not, it is intended to continue the appointment of a commander-in-chief.

Dr. B. R. Ambedkar.

7037. Section 19 (1) of the present Government of India Act says: "The Commander-in-Chief of His Majesty's forces in India is appointed by His Majesty by warrant under the Royal Sign Manual."?—Yes; that would probably go on in much the same way.

Lord Irwin.

7038. Is not the matter referred to in Proposal 6 at the foot of page 39 of the White Paper?—Yes, paragraph 6, page 39.

Dr. B. R. Ambedkar.

7039. Paragraph 6 does not say how his appointment is going to be made—on whose advice?—By the Crown.

7040. On whose advice?—The appointment is made by the Government here.

Sir Austen Chamberlain.

7041. By His Majesty acting on the advice of Ministers at home?—Yes.

Dr. B. R. Ambedkar.

7042. I looked up the other day the Debates in the Legislative Assembly dated the 17th February, 1921, and Sir

Godfrey Fell described the circumstances under which the Commander-in-Chief was appointed in these terms : "The appointment of the Commander-in-Chief is made by His Majesty the King on the advice of the Cabinet, and the Cabinet naturally turns to the Chief of the Imperial General Staff, the highest military authority in the British Empire, for advice." So the position is that the Commander-in-Chief under the present law or practice is appointed by the Cabinet on the advice of the Chief of the Imperial General Staff?—He is not appointed by the Cabinet; he is appointed by the Crown, on the advice of the Prime Minister, or whatever it may be—the Secretary of State for India here.

7043. The point I want to put to you is this : Do you think this practice is consistent with the new sort of Government we are contemplating, considering that Defence is to be largely a responsibility of the Indian people and the Indian Legislatures?—I think it is quite

inevitable with Defence a reserved Department.

7044. But it is also going to be a responsibility of the Indian people and the Indian Legislatures. How is the appointment of an important officer who is going to be in charge of a very important Department under the new Government, who is appointed not on the advice of the Secretary of State, not on the advice of the Governor-General, but on the advice of the Cabinet in consultation with the Chief of the Imperial General Staff, compatible with a Government whose Defence will be a responsibility of the Indian people?—Surely, if Defence is a Reserved Department the Government to whom those reserved Departments are responsible should make the appointment.

7045. I can understand the Viceroy making this appointment; I can understand the Secretary of State making the appointment?—That is what it comes to.

*(The Witnesses are directed to withdraw.)*

Ordered, That this Committee be adjourned to Thursday next, 10.30 a.m.

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20th July 1933.

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Present :

The MARQUESS of LINLITHGOW in the Chair.

Lord Archbishop of Canterbury.  
 Lord Chancellor.  
 Marquess of Salisbury.  
 Marquess of Zetland.  
 Marquess of Reading.  
 Earl of Derby.  
 Earl Peel.  
 Lord Ker (Marquess of Lothian).  
 Lord Hardinge of Penshurst.  
 Lord Irwin.  
 Lord Snell.  
 Lord Rankeillour.  
 Lord Hutchison of Montrose.  
 Major Attlee.

Mr. Butler.  
 Major Cadogan.  
 Sir Austen Chamberlain.  
 Mr. Cocks.  
 Sir Reginald Craddock.  
 Mr. Davidson.  
 Mr. Isaac Foot.  
 Sir Samuel Hoare.  
 Mr. Morgan Jones.  
 Sir Joseph Nall.  
 Lord Eustace Percy.  
 Miss Pickford.  
 Sir John Wardlaw-Milne.

The following Indian Delegates were also present :—

INDIAN STATES REPRESENTATIVES.

Rao Bahadur Sir Krishnama Chari.  
Nawab Sir Liaquat Hayat-Khan.  
Sir Akbar Hydari.  
Sir Mirza M. Ismail.

Sir Manubhai N. Mehta.  
Sir P. Pattani.  
Mr. Y. Thombare.

BRITISH INDIAN REPRESENTATIVES.

His Highness the Aga Khan.  
Sir C. P. Ramaswami Aiyar.  
Dr. B. R. Ambedkar.  
Sir Hubert Carr.  
Mr. A. H. Ghuznavi.  
Lt.-Col. Sir H. Gidney.  
Sir Hari Singh Gour.  
Mr. Rangaswami Iyenger.  
Mr. M. R. Jayaker.  
Mr. N. M. Joshi.

Begum Shah Nawaz.  
Sir A. P. Patro.  
Sir Abdur Rahim.  
Sir Tej Bahadur Sapru.  
Sir Phiroze Sethna.  
Dr. Shafa'at Ahmad Khan.  
Sardar Buta Singh.  
Sir N. N. Sircar.  
Sir Purshotamdas Thakurdas.  
Mr. Zafrulla Khan.

The Right Hon. Sir SAMUEL HOARE, Bt., G.B.E., C.M.G., M.P., Sir MALCOLM HAILEY, G.C.S.I., G.C.I.E., Sir FINDLATER STEWART, K.C.B., K.C.I.E., C.S.I., and Sir JOHN HENRY KERR, K.C.S.I., K.C.I.E., are further examined.

*Chairman.*

7046. Sir John Kerr, you are late of the Indian Civil Service, now retired. I think the last office which you held in India was that of Governor of Assam ?—  
(Sir John Kerr.) Yes.

7047. Secretary of State, I think you might wish to describe the circumstances in which you have asked Sir John Kerr to attend with you to-day ?—(Sir Samuel Hoare.) My Lord Chairman, I have brought with me to-day Sir John Kerr particularly to deal with the more detailed questions about the Franchise. It seemed to me that, first of all, with his administrative experience, and, secondly, with his experience on the Franchise Committee he could deal with a number of questions that I feel sure will be asked, namely, as to whether administratively the kind of scheme contemplated in the White Paper is practicable. I would therefore suggest to the Committee and the delegates that he should deal with questions of that kind. When, however, questions of more general policy arise then I can deal with them.

7048. I think, Sir John Kerr, that you were Deputy-Chairman of what is called

the Lothian Committee on the franchise ?  
—(Sir John Kerr.) Yes.

7049. Do you hold any official position at this moment ?—No, none at all.

*Marquess of Salisbury.*

7050. Secretary of State, I think you do not follow in the White Paper absolutely the Lothian Report, but in its main outlines you do ?—(Sir Samuel Hoare.) That is generally so.

7051. In particular for the Federal representation you, in the White Paper, have selected direct election for the Central Assembly ?—Yes.

7052. Of course, I need not remind you that there have been a great deal of questions about that. Do you look upon that as an open question, whether it should be direct or indirect ?—It is difficult to say exactly what is an open question. I would certainly say it is a question upon which there is bound to be a difference of opinion. There always has been a difference of opinion. The whole history of the question shows how at one time there has been the chief support for one alternative and at another time for

the other. We have had many discussions about it at the Round Table Conferences, and Sir John Kerr will tell you that his Committee considered the issues in some detail, and, as a result of all these discussions we have come to the view that we do not see a practicable way by which we can surmount the very formidable obstacles to indirect election.

7053. I will assume for the moment, at any rate, that the direct representation so far as the White Paper is concerned holds the field?—Certainly; I am here to defend the proposals of the White Paper.

7054. Then I would ask either you or Sir John whether you have considered the full arrangements for the marshalling of this large body of electors? Do you provide anything which corresponds, for example to revising Barristers in India?—(Sir John Kerr.) The question of revising the roll was not specially before us. It was more the initial preparation of the roll that we were concerned with, and in every Province we satisfied ourselves by discussion with the local Governments and the local Provincial Committees appointed by the Provincial Legislative Councils that it would be practicable to prepare a Voters' Roll for the electorate which we suggested for adoption.

7055. You are aware that the preparation of the roll is a very complicated matter in England?—I do not know that it is any more complicated in India.

7056. No, I do not imagine that it is, but I want to know whether you can make corresponding provisions in India when you are dealing with this large body of electors?—The roll which we suggest is based as to 90 per cent. of the voters on a property qualification, and in the rural areas the property is entirely land. We have in every province in India no elaborate land registration system which provides a most convenient basis for the preparation of a roll of this kind based on the land held by the voters.

7057. Of course, in England there are registration agents employed under the modern system by the Government and Party agents to watch the registration agents, and revising Barristers to see that no injustice is done. Have you considered anything of that kind, for proper precautions that the Register is right?—

Yes. We have had a roll of this kind for the last 14 years since the Montagu-Chelmsford reforms came into operation. There is a responsible officer in every district or sub-division of a district whose duty it is to provide the roll on the basis of the Land Registers which I have mentioned, and the candidates and their supporters do, in a great many cases, take a great amount of trouble to see that only those people who are entered on the roll who are entitled to be entered according to the qualification.

7058. I do not want to take up unnecessary time, but may I put this question? Are you satisfied that under those arrangements no injustice will be done?—Yes, I am.

7059. As regards the polling districts, the constituencies are very large, are they not?—The Provincial constituencies are not very large.

7060. I am speaking of the constituencies for the Central Assembly?—Yes, they are very large indeed.

Marquess of Salisbury.] About 1,700 square miles, I think, on the average.

Lord Hardinge of Penshurst.] 3,500.

Marquess of Salisbury.] More than that?

Marquess of Zetland.] Much more.

Lord Hardinge of Penshurst.] 3,500.

Marquess of Salisbury.] I am told the average is 3,500 square miles.

Marquess of Zetland.] With Lord Salisbury's permission may I call attention to what the Franchise Committee themselves said about that?

Marquess of Salisbury.] My noble friend knows it much better than I do. I shall be very glad of his help.

Marquess of Zetland.] The Franchise Committee say: "The constituencies under our proposals, while varying greatly in size, will, in the country districts, average between 5,000 and 10,000 square miles in area." I may say that some of the constituencies will be enormously larger than 10,000 square miles.

Marquess of Salisbury.] My noble friend will help me very much if he will tell me how large they will run to?

Marquess of Zetland.] In the Punjab I think the general constituencies will run

to over 17,000 square miles on the average.

Marquess of Salisbury.

7061. I think that is the mistake I made. I should have said 17,000 and not 1,700. They are very, very large. Have you considered how many polling districts will be necessary to deal with these enormous constituencies?—We endeavour to arrange that nobody shall have to walk more than 10 miles to the poll. That is what we aim at.

7062. You think they will walk 10 miles to the poll. They would not in England?—In India they have to. They have to walk to their markets as a rule once a week. Eight or ten miles is nothing to them.

7063. Do you really think there will be an adequate representation of the people if they have to walk 10 miles to the poll?—There is under the existing arrangement. There have been elections during the last 14 years in which there have been very good attendances on the whole at the elections, and the percentage of voters who have actually voted has increased, I think, at every election.

Marquess of Salisbury.] What was the figure at the last election?

Mr. M. R. Jayaker.

7064. Fifty-five to 60 per cent.—Forty-six per cent. in the year 1926, and it has now, I think, gone up to well over 50 per cent.

Marquess of Salisbury.

7065. There has been an election since 1926, has there not?—Yes.

Mr. Isaac Foot.] Fifty per cent. is about the ordinary poll in London for a Parliamentary election, and less than that for Council elections.

Marquess of Salisbury.

7066. Upon which Exchequer will the expenses of these elections fall?—It falls at present entirely on the Provincial Governments.

7067. Have you any estimate of how much a General Election for the Centre will cost?—I do not think we have an estimate for the Centre alone, but in

Appendix VI of the Franchise Committee's Report there are a considerable number of calculations as to the probable cost of these elections. Of course, under the Lothian scheme the main cost will be in respect of the Provincial Councils.

7068. Can you give the Committee any figures?—(Sir Samuel Hoare.) I am informed that the additional cost for the election of the Federal Legislature—

7069. The additional cost?—That is over and above the present cost of an election for the Indian Central Legislature; the additional cost is 12 lakhs.

7070. Perhaps I ought to address this to the Secretary of State. You are aware that the almost universal rule of these representative systems is that the franchise is gradually extended?—Yes, that has been so here, anyhow.

7071. So we must anticipate that the Indian franchise will be extended?—I should think that will be a reasonable anticipation.

Marquess of Salisbury.] In fact, one of our colleagues on the Delegation—Mr. Joshi—indicated at an early stage that he looked forward at an early date to having an extension in the franchise. He will correct me if I am wrong.

Mr. Joshi.] You are quite right, my Lord.

Mr. M. R. Jayker.

7072. Have the Government contemplated how they will deal with an extended franchise on these lines with the vast masses of India?—We have felt that it was our duty to make what we consider reasonable and manageable proposals for a period of time. After that everybody is equally entitled to make what prophecy he likes. Our proposals are based upon what we consider to be manageable for a period of time. After that the question must be considered upon its own merits.

7073. Is not that a very short-sighted policy? After all, we are providing a Constitution, I suppose, for a very long period?—What other policy could anybody adopt?

7074. Will the Secretary of State reflect that for the Central body it is, I think, 2 per cent. only of the population, or between 2 and 3 per cent. of the population who are enfranchised, and that amounts to something like 8,000,000

electors. Supposing that franchise has to be extended, as the Secretary of State has agreed is very likely to be the case, how will this framework which we are creating work, when you consider that the population under adult franchise, if it came to adult franchise in British India alone, would be 130,000,000 ?—(Sir John Kerr.) May I answer that ? Under the Lothian scheme the Provincial electorate will number 36,000,000. The Lothian Committee was satisfied that the staff existed which could manage an electorate of that size. If the Federal electorate is increased from 8,000,000 to 36,000,000 very little addition to the present staff would be necessary to manage the Federal Election in addition to the Provincial Elections on that scale, and, generally speaking, I would say that I do not think there is any reason to anticipate that there will be more difficulty in India of handling enlarged electorates from time to time ; there should be no more difficulty in India than there has been in England. The sort of staff which handles these electorates is a staff which can be increased without any serious difficulty. There will be a certain amount of expense, of course, but no serious expense and no serious difficulty in having an enlarged staff to meet an increased electorate as time goes on.

7075. Did not the Lothian Committee itself find that it would be impracticable to deal with more than 20 per cent. of the population ?—Yes, I think so, certainly.

7076. How does that fit in with your answer to me, that it does not matter how much you enlarge it, it would always work ?—The present electorate in the Provinces is only seven millions. From seven millions to a hundred and thirty millions at one jump is obviously a very large step forward.

Marquess of Salisbury.] If it is more than 20 per cent., according to your own report it would become impracticable.

Marquess of Lothian.] I think you have misunderstood the question. The Franchise Committee never said it would be impossible to poll more than 20 per cent. of the population. That is the question Lord Salisbury asked.

Marquess of Salisbury.] I must not take up time by pursuing it. I must look up the passage.

Sir Austen Chamberlain.] I hope Lord Salisbury, in his anxiety to facilitate business, will not cut his questions down too much. These are very important questions. Since we have had the Secretary of State present we have probably done more useful work than at any previous time.

Marquess of Salisbury.

7077. The Committee will realise how anxious I am to be as useful as possible. This is the passage which I referred to. It is on page 17 of Lord Lothian's Committee's Report : " Finally, after discussing simplified polling methods with officials in every Province, we are faced by the fact that, without a single exception, every one of the Provincial Governments and of the Provincial Committees has not only declared that adult franchise is administratively impracticable to-day, but has placed the maximum of administrative practicability at some figure below 20 per cent. of the total population, corresponding to very much less than half of the adult population." That was the passage in my mind, and I put it to Sir John that that shows that there is certainly a limit, and a very definite limit, beyond which it would be impossible to poll vast masses of the electorate ?—I think we are thinking of the conditions as they exist at present. The present electorate, as I said, is only 7,000,000, and to jump from 7,000,000 to 130,000,000 straight off was, in our judgment, impracticable. But we did not mean to imply that you could not work up to adult suffrage of 130,000,000 gradually.

7078. So you really contemplate that it would be possible to poll 130,000,000 ?—Not immediately—in the future.

7079. I do not mean the dim and distant future, but in some reasonable period of time. Of course, no one can say what will happen three hundred or four hundred years hence, but I mean within a reasonable period of time ?—We thought it would be impossible to poll more than this 36,000,000 that we proposed without an inordinate increase of the staff.

7080. Do you not think that the natural conclusion from that is that if you have this vast population, one-fifth of the human race altogether, and you are proposing to create a system under which they shall have an elected Assembly, it is very unwise to begin by adopting a system of direct election, which, presumably, cannot work except with a small number?—I do not think we meant to say that at all. What we did say was that for various reasons we preferred the direct system to the indirect system, and that we must impose on the grounds of immediate practicability some limits on the electorate.

7081. I will not go any further into that; other Members of the Committee will pursue it, no doubt, and will draw their own conclusions from what you have said. May I ask you about the ballot? I know that the Lothian Committee considered the question of the ballot very carefully, did they not?—Yes.

7082. Do you think it would be easy to work the ballot with the enormous proportion of illiterates which there are in the electorate?—We recommended a special system of voting which is called the coloured box system. It has been in force in parts of India for a great many years in municipal elections. The Southborough Committee which framed the franchise in 1920 for the Montagu-Chelmsford Report, referred to that system with approval as very suitable for recording the votes of an illiterate population. It has been worked in Ceylon where the electorate numbers 65 per cent. of the population and it has been worked there with remarkable success. We took evidence on that point, and it is recorded in our Proceedings.

7083. But you are aware, Sir John, that there are much fewer electorates in Ceylon than there will be under this system?—Of course, Ceylon is a much smaller place in every way, in population and area, and all the rest of it.

7084. But the proportion of illiterates is much smaller in Ceylon than it will be here?—Yes, that is so; 50 per cent., I think it is.

7085. And how many illiterates will there be under the White Paper proposals for the Central Assembly?—For the Central Assembly, there need not necessarily be any. There are between

12,000,000 and 15,000,000 literate in India, and the electorate for the Federal Legislature will number only some 7,000,000 under the Lothian proposals; so that, the proportion of the illiterates for the Federal Legislature will not be large.

7086. And on the Provincial Legislature?—On the Provincial Legislature, it will be considerable. The male electorate under the Lothian scheme, under the White Paper scheme, will number about 30,000,000 so that about half of these will be illiterate.

7087. You say half of the Provincial electorate?—Half of the Provincial electorate will be illiterate.

7088. Have you satisfied yourself that this coloured box method of determining the votes is likely to give a well considered judgment on a set of political issues?—There is no difficulty at all in getting the illiterate voters to understand a mechanical method of putting their paper into a box of a particular colour.

7089. Will they understand from the particular colour the sort of political questions which are submitted to them?—They understand they are voting for A or B, whoever it is, and they know in a general way at present that A is a landlord and stands for the landlords' point of view, and that B is perhaps the vakil from Headquarters who has taken up the cause of the tenants. There is not the slightest difficulty in getting any illiterate cultivator in India to understand that and to vote accordingly.

7090. And you think that those will be the only simple issues that will be submitted to the electors, that they are to vote for the landlord or the vakil?—I do not say those will be the only ones, but in the Provinces, for the Provincial Councils, that will be the most important one.

7091. And for the Central Assembly, too?—No. The Central Assembly will have very different questions to deal with, but the electorate there will be very much smaller.

7092. Then, as regards the polling, you have got to deal with a large number of women, have you not?—Yes.

7093. It is rather difficult to express it properly. It has been suggested to

you that there would be great difficulty in administering the law against personation in the case of the women?—Yes; there is some trouble about that undoubtedly.

7094. By the usual practice in India, the women are not generally known by sight?—No.

7095. Is that so?—That is so, of course, in the towns, and the women of the upper classes, but with regard to the village women, the sort of women who will get the vote for the Provincial electorate, there will in most cases be very little practical difficulty in identifying them.

7096. I should have thought it would have been a very difficult thing with a veiled woman, I must say?—You will have to take the husband's word for it, in most cases, but the neighbours, and people of that kind, would be well aware of any attempt to defraud the public.

*Lord Hardinge of Penshurst.*

7097. But a man may have more than one wife?—He may; then only one wife's name will be on the roll.

7098. The wrong wife might vote; if she is put down as the wife of So-and-So, the wrong wife might vote?—You would have to put down the name in that case, and you would have then to trust to the husband or relative who brought her that she was the right woman.

*Marquess of Salisbury.*

7099. Altogether, it is clear that the system such as we know it in England will work with great difficulty in India?—No, I would not say that. I think in these village polling booths, there are lots of people all around, and there is no great difficulty in preventing personation either of men or women. They do not do things in a hurry at these places; it is all done in a very leisurely sort of fashion, and there is plenty of time for people to look around.

7100. Of course, I have no experience of India, but I have considerable experience, not a greater experience than most of my friends, of the difficulties of electing Members of Parliament in England, and I know it is a very difficult and elaborate process. I suggest to you that these crude methods of the

coloured box which was practicable in Provincial elections is not likely to produce very accurate results in India?—I have only voted at one election in England, but I must say it did not strike me that the methods adopted were very elaborate. The Parish Clerk was in charge, and he had a few people of that kind to assist him, and the whole thing seemed to be going very smoothly. That was in the country, of course.

7101. The whole thing is surrounded by agents of the proper kind. I have one further question to put to the Secretary of State. The Central Assembly represents a little more than 2 per cent. of the population—between 2 and 3 per cent., I think?—(Sir *Samuel Hoare*.) Yes, almost 3 per cent.

7102. And the Council of State, being elected indirectly, will represent about 14 per cent. of the population?—Lord Salisbury will remember that the Council of State is elected indirectly by the Provincial Councils.

7103. That is why they will represent 14 per cent. indirectly of the people?—Yes.

7104. Perhaps I had better put it a little more clearly: The ultimate voters for the Legislative Council will be 14 per cent. of the population. The ultimate voters for the Assembly will be only 2 or 3 per cent. of the population?—Yes, always remembering that the election for the Council of State is not only indirect but it is also an election by units, namely, by the Members in the Provincial Councils.

7105. But it does not alter that numerical point, which I put to the Secretary of State?—No, I do not say that it alters it, but it does not seem to me to be very relevant to it.

7106. So the Council of State is really the more democratic of the two?—Lord Salisbury can draw what deductions he likes about it. I should not draw that deduction from it.

*Mr. Rangaswami Iyenger.*

7107. I desire to put to the Secretary of State this question: In claiming that because Members of the Provincial Legislative Council elect representatives to the Upper House of the Federal Legislature, is it not the case that the primary voter, the 14 per cent. of whom



my Lord Salisbury refers to, does not cast any vote for any member of the Second Chamber as such, but he only elects the Members of the Provincial Council on Provincial issues and for Provincial purposes, and that the Provincial Legislature is treated as an electoral unit for getting Members to the Second Chamber? That the primary elector is not really interested in the election to the Council of State?—That is so. For the purpose of the Council of State, the Provincial Assembly becomes an electoral college.

*Sir Hari Singh Gour.*

7108. May I put another question arising out of the question just put to and answered by the Secretary of State? Is it contemplated that Members of the Provincial Council electing for the Second Chamber in the Central Legislature will act upon any mandate given to them by the electorates as to the person for whom they should vote?—I should have thought not, but I do not think one can say exactly how it will happen in every Province.

7109. But under the Constitution as framed, they are not expected to act upon any mandate given to them?—No. They are an electoral college free to make what selection they like.

*Sir Akbar Hydari.*

7110. Would there be any difference in the class of parties for which the Provincial Legislature electors will cast their votes and the parties which will be in the Central Assembly? Will there be any difference in parties?—It is very difficult to prophesy. I would have thought myself that whether there are differences of parties or not, there will be differences of questions.

7111. But will it not be just exactly as it was stated by Sir John Kerr, that the village elector will cast his vote to see whether this is a man who represents the ryot and comes from the ryot class, or whether he is a man who is a vakil who has got the ryots' interests at heart. That will be the sort of consideration on which he will cast his vote for the Provincial Legislature. Will it not be that when he comes to cast his vote for the Central Legislature there will be the same considerations and nothing else? There will not

be any real issues of the questions which are distinctly in the Provincial Legislature and distinctly in the Central Legislature which will guide them?—I think it is very difficult for me to give an opinion in answer to a question of that kind, and I do not think any opinion I gave would be any better than anybody else's opinion. I would restrict myself to saying that there will be different questions with which the two Legislatures will be dealing, and, secondly, that the primary voter in the village will not be nominating in any way the representative for the Council of State. The Provincial Council will, as I said just now, be an electoral college for that purpose, and how exactly it will carry out its duties and what kind of people it will elect, I think must depend upon the circumstances at the time in the particular Province.

*Marquess of Salisbury.*

7112. May I take the Secretary of State to paragraph 19 of the White Paper, page 11? I understand that when the White Paper was written no arrangements had been come to as to the allocation of the seats amongst the Princes?—No final arrangement.

7113. Is the Secretary of State able to add anything to that information, since the White Paper was printed?—No. I do not think the situation has substantially changed. I have always felt that it was for this Committee to settle, first of all, upon the size of the Federal Legislature, and, secondly, upon the percentage of seats to be allocated between British India and the Indian States; and that further than that, it was for the Princes themselves to say how they thought that percentage of seats should be allocated between them.

7114. But will not there be any provision in the Bill which the Government intend to follow on this Committee as to the allocation of seats amongst the States?—I think very likely, ultimately, there will have to be an appendix showing how the grouping will take place.

7115. How can there be an allocation of seats as between the States until it be known how many States are going to join?—I do not think the one is dependent on the other, but what is a

necessary and precedent condition is that the States should know what is to be the size of the Legislatures and what is to be their percentage of seats.

7116. I understand from what the Secretary of State has just said that these seats are to be allocated by an arrangement amongst the Princes?—Yes.

7117. If there are only 50 per cent. of the Princes in the Federation, how are the whole body of the Princes to determine how the seats shall be allotted?—I am contemplating that the allocation would be made upon the assumption that all the Princes were coming in.

7118. Therefore, only the Princes who come in will be called upon to decide how the seats are to be allocated?—No, certainly not. We are now in the process of negotiating with the Princes about the allocation, and the basis of that negotiation is that the Princes are all coming in and all the Princes, big, small and of medium size, are interested in these discussions.

*Sir Austen Chamberlain.*

7119. In other words, as I understand the scheme, the scheme which you contemplate will be a complete scheme making room for the entry of all the Princes?—Yes.

7120. But I think you indicated the other day that you contemplated having some provisional arrangement to tide over the time between the entry of the minimum of Princes who may come in at once and the arrival of the others who may come in only gradually and much later?—Yes.

*Marquess of Salisbury.*

7121. Let us put a case. The figures are quite unimportant, but supposing 50 per cent. only of the Princes come in, how are you going to get the other 50 per cent. to take their share in determining how the seats are to be allocated?—Because the allocation arrangement would have been made precedent to that situation.

7122. The Secretary of State would be prepared, no doubt, to make a complete scheme covering 100 per cent. of the Princes?—Yes.

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7123. But supposing 50 per cent. of them will not join you in that discussion, how will you be placed?—We shall be placed with the other 50 per cent. coming in according to the groups in the grouping system that we have made for the whole 100 per cent.

*Sir Austen Chamberlain.*

7124. Did you not say the other day that you would in that case contemplate some weightage, some addition, to the representation of the seats coming in, so that those Princes who did come in might have a reasonable proportion of the Legislature?—Yes.

*Marquess of Salisbury.*

7125. Your plan, as I understand (or I ought to say the plan you prefer of three plans), was to add to the representation of the Princes already in the Assembly a proportion of the other Princes' representation on the same proportion as those already admitted. Is that so?—I do not know what Lord Salisbury means by saying "upon the same proportion as those already admitted."

7126. I understand one of the States which came in would have, say, 10 seats?—I see what Lord Salisbury means. I think very likely it would work out on those lines.

7127. There is only one other question I want to put as regards the Provincial distribution, that is to say, the distribution of seats in the Provinces. He is aware, of course, that there is a great deal of difference of opinion on that. I am not going into the difference of opinion, as to whether the Communities are properly represented in Bengal under the Poona Pact. I am not going into it; but I am going to put this question to the Secretary of State: Whether he has any statement at all to make upon that subject?—Upon the Communal decision of the Government?

7128. In the case of Bengal, I am speaking especially?—No. I have nothing to add to the Memorandum that I circulated to the Committee and Delegates on the 26th May upon the Government's Communal decision. The Government made it quite clear that they regarded their decision as final and they

were only prepared to accept a variation if it was clear to them that the variation had been agreed by the accredited leaders of the various Communities; and, as a Member of the Government, I am not prepared to add anything fur-

ther to that statement of Government policy.

*Chairman.*] Secretary of State, do you desire to hand in the Memorandum to which you have just referred?—Yes, the Memorandum is as follows :—

#### MEMORANDUM.—COMMUNAL AWARD.

I think it may be useful to my colleagues on the Joint Select Committee who have not been familiar with the developments leading up to the White Paper, if I give for their information a very brief account explaining the scope of what is known as the "Communal Award," the history of its origin, and why it stands, so far as the Government is concerned, on a different footing from the other proposals in the White Paper.

2. Both the first and second sessions of the Round Table Conference found progress much impeded through the failure among the Indian delegates to reach mutual agreement both on the number of seats which the various great communities in India were to secure in the Legislature and on the method of election to those seats. The main issue as regards election was whether separate electorates were to be maintained or the system of joint electorates with reserved seats employed. (For an explanation of these terms see paragraphs 149 and 150 of Vol. I of the Statutory Commission's Report.) Repeated failure, after many attempts, to reach agreement on these problems had not only left this vital gap in the Constitution as so far outlined, but was preventing some of the minority communities from proceeding any further with discussion of other aspects of the Constitution which had a communal bearing until they knew where they stood as regards their representation in the Legislatures.

3. Accordingly, in order to remove this obstacle to progress, the Government were very reluctantly compelled to give a decision on these points which was more or less of the nature of an arbitral award. The Government undertook to incorporate the provisions of the award in their proposals to Parliament. This award covered the composition of the Provincial Legislatures and the method of election to them. It was found impossible to isolate the more purely communal questions involved

from such matters as the number of seats for special interests, and the size of the Legislatures. On such points, however, the Government had had the benefit of the advice of the Indian Franchise (Lothian) Committee. The award was issued on the 15th August, 1932, and presented to Parliament as Cmd. 4147.

4. Subject to an alteration in respect of the Depressed Classes explained further below, the provisions of the Award are reproduced on pages 91 and 93 of the White Paper (those regarding election on page 91 being a slightly abridged version).

5. The announcement prefaced to the Award contained the following very important passage :—

Paragraph 4. "His Majesty's Government wish it to be most clearly understood that they themselves can be no parties to any negotiations which may be initiated with a view to the revision of their decision, and will not be prepared to give consideration to any representation aimed at securing the modification of it which is not supported by all the parties affected. But they are most desirous to close no door to an agreed settlement should such happily be forthcoming. If, therefore, before a new Government of India Act has passed into law, they are satisfied that the communities who are concerned are mutually agreed upon a practicable alternative scheme, either in respect of any one or more of the Governor's Provinces or in respect of the whole of British India, they will be prepared to recommend to Parliament that that alternative should be substituted for the provisions now outlined."

6. Since the Award there has been one important modification in respect of the representation of the Depressed Classes.

the history of which is shortly as follows :—

On the issue of the Award Mr. Gandhi expressed his intention to fast against it in view of his objection to the provisions made regarding representation of the Depressed Classes, which, in his view, would have produced an artificial splitting of the Hindu community. In published correspondence the Prime Minister gave the reasons why the Government were unable to take the same view, but Mr. Gandhi remained unconvinced and began his fast. Negotiations now began, under Mr. Gandhi's auspices, between the representatives of Caste Hindus and representatives of the Depressed Classes led by Dr. Ambedkar. As a result an agreement was reached, now known as the Poona Pact, by which the numbers of the Depressed Class Seats in each province were increased above that recommended by the Communal Award, while a different system of election was substituted. The total number of Hindu seats (known technically as "general" seats) for Caste Hindus and Depressed Classes taken together remained the same under the Poona Pact as under the original Communal Award. The Government accepted the provisions of this Pact in modification of their Communal Award as being a mutually agreed practicable alternative under the provisions of paragraph 4 quoted above, and on this being announced Mr. Gandhi broke off his fast. The White Paper proposals on pages 91 and 93 incorporate the terms of the Poona Pact.

7. The position of the Government, therefore, as regards the proposals of the White Paper which cover the composition of Provincial Legislatures and the method of election thereto\* is that they themselves are specifically pledged not to recommend to Parliament any variation of these proposals except such as may be mutually agreed upon by the communities concerned, and they are also pledged as a Government not to participate in any negotiations for the purpose of reaching such a change. The Government interpret this pledge as covering the provisions of the Poona Pact which they have themselves accepted in the circumstances explained above.

\*This does not cover Franchise.

8. The original Communal Award was concerned only with the Provincial Legislatures owing to the fact that corresponding provisions for the Centre could not very well be settled pending a decision on the numbers to be assigned in the Federal Legislature to British India and British Indian States respectively. The proposals in Appendices I and II of the White Paper, which should be read with paragraph 18 of the Introduction to the White Paper, now contain the Government's proposals on this subject. These proposals are in effect supplementary to the original Communal Award. The Government have, however, not given in respect to them a specific pledge similar to that contained in paragraph 4 of the original announcement quoted above. While, therefore, they are not anxious to see a fresh investigation *de novo* into these proposals for allocation between the communities of seats in the Central Legislature, they do not consider these proposals to stand, as regards their own attitude, in exactly the same position as the Provincial Communal Award, but they see the gravest objection to any change on two points, viz., the allocation of one-third of the British India seats in the Federal Legislature to Muslims, and the *percentages* of the seats allocated to British India and the States respectively.\*

9. To summarise, it will be clear from the above that the Communal Award has reference only to the composition of the Legislatures, and is not concerned with the whole of the manifold points in the Constitution which have a communal aspect (e.g., special responsibilities of Governors and Governor-General, relations between Centre and Provinces, Fundamental rights, etc.), and also that in respect of the matters provided for in the Communal Award, the Government have clearly defined their position and the conditions upon which alone they would think it justifiable to depart from it.

Sir Austen Chamberlain.

7129. May I try to get clear what is in your mind with regard to the allocation of seats to the Princes?—Yes.

\*To prevent misapprehension, it may be explained that of the ten Governor-General's nominees in the Upper Chamber, it is intended that six should be from British India and four from the States.

7130. I understand you are negotiating with them a scheme on the basis that all the Princes come in?—Yes.

7131. It is a condition of the entry into force of the new Constitution that at least 51 per cent. shall have come in?—Yes.

7132. Assuming what in your opinion is extremely unlikely, as you have told us more than once, that that 51 per cent. and no more come in at the first, you would then propose to take a certain percentage of the seats that were reserved for those who had not come in and use them in some way to increase temporarily the representation of those who have come in?—Yes.

7133. That is your policy, and at the present time the negotiations with the Princes about the complete scheme are not finished and you can add nothing to what is in the White Paper on that subject?—That is so. We have throughout felt that this was essentially a question for the Princes to settle amongst themselves. Indeed, at our former discussions that is the line that the Princes themselves have taken. They have added (at least, one or two of the leaders amongst them have added) that if they cannot settle upon a system of allocation then they will look to us to make a judicial settlement, but there is everything to be gained, if we can achieve the end, by getting a settlement by agreement amongst the Princes themselves, rather than for the British Government or this Committee to have to intervene with a settlement from outside; and I am not at all without hope that we shall reach a settlement of this kind by agreement.

7134. That you will reach a settlement?—That we will reach a settlement.

7135. I think you will recognise, Secretary of State, that the Committee would like to have that settlement before them when considering their Report?—I think that may be so. At the same time I have always taken the view that provided the allocation is a reasonable one (and I think we must assume that it is, because, after all, we want to get in as many States as we can, whatever may be their size) it is not really a matter of primary concern to His Majesty's Government as to what the details are.

7136. If I may say so, I am very much disposed to agree, but it does not lessen my desire to see the scheme before this Committee closes its labours?—I take note of what Sir Austen says.

*Mr. J. C. C. Davidson.*

7137. Is not one of the difficulties in this very complicated matter that the allocation cannot be finally settled until the Princes do know what the size of each of the Chambers is to be and what percentage has been settled for their representation?—Certainly.

7138. Therefore, no final scheme would be available?—Those are two conditions without which it is impossible anyhow to get a final allocation. The Princes must know how many seats they are to have in each of the Chambers.

*Mr. J. C. C. Davidson.*] What I mean is that until our Report is available the actual scheme cannot be finally settled.

*Sir Austen Chamberlain.*

7139. It is rather like building a house: the carpenter waits for the plumber, the plumber waits for the bricklayers, so nothing gets finally finished?—I think Sir Austen will agree that the Princes must know what is to be the size of the Chambers, and what is to be their representation.

7140. I agree. I turn to another subject, Secretary of State. You and I, Secretary of State, have sat for many years in the House of Commons for borough constituencies?—Yes.

7141. Is there any sort of average of population in a federal constituency under your scheme?—I admit there is an enormous disparity, and that is one of the formidable arguments that have been urged against a system of direct election. It is a case of putting the arguments for and against and coming to a decision upon them.

7142. Between what limits would that disparity exist roughly?—Taking a borough constituency here, then we should take an urban constituency in India.

7143. Very well?—Sir Austen will find that it is not so much the numbers that are the difficulty as the geographical size of the constituency. If you take the numbers for the Federal

Assembly you would find that the numbers would not differ materially between the voters in a good many urban constituencies here and the voters for the Federal Legislature. The trouble comes in with the geographical size of the constituencies.

*Sir Austen Chamberlain.*] I agree.

*Major Cadogan.*

7144. And lack of communications?—Yes, to add to the difficulty.

*Sir Austen Chamberlain.*

7145. You and I, as I say, Secretary of State, represent closely-inhabited borough constituencies. I suppose you can walk across your constituency from side to side and end to end of it in an hour?—Yes; I should think even in half-an-hour.

7146. I thought you could, but I did not quite dare to press you to that pace. In an English county constituency evidently the communications are much longer but they are manageable by an individual, are they not?—Yes.

7147. How do you imagine that an Indian candidate, with a constituency with an area of 17,000 square miles, will get into touch with the electorate? I take 17,000 as having been the size given for some of the areas in the Punjab?—I think it is going to be extraordinarily difficult.

7148. Would it be going too far to say that it would be quite impossible?—I think myself it would be quite impossible for a member in a constituency of that size to have the same kind of personal contact that the member for an agricultural constituency in England has with his constituents. I think one must frankly admit the fact that it would mean very little contact at all between the member and a great many of his constituents.

7149. In fact, would it be too much to say that he would be really as remote from a great number of constituents as if he were elected at second hand by an indirect system of election?—I should rather like to hear Sir John Kerr's view upon a question of that kind, but before I ask him to give a more detailed answer I would remind Sir Austen that many of these constituencies in India are

of a very great extent, and already, in the nature of things, there is much less close contact between the member and his constituents than there is here. Would you amplify that, Sir John?—(*Sir John Kerr.*) I would say, Sir, that the system is, as Sir Austen Chamberlain has remarked, entirely different in India from anything we can conceive of in this country. Of course, we have these members already for the Central Legislature in India, and the present constituencies are very much larger than any constituency will be under the White Paper scheme, because the number of elected seats is very much smaller. The way that they maintain contact at present is by going to the headquarters of subdivisions or big market towns, police stations, and places of that kind, and having a talk with their main supporters in that locality. There is nothing, or very little, in the way of the ordinary public meeting that takes place in England, and that system, I imagine, will be continued the more responsibility becomes developed in India.

*Marquess of Zetland.*

7150. May I interpose one question there? I do not quite understand if the argument of the Secretary of State and Sir John Kerr is this: That because a bad system exists now in India, therefore, it is necessary that it should be perpetuated?—(*Sir Samuel Hoare.*) That of course, is making a comment upon what I have said, and Lord Zetland can make what comment he likes, but let him face not only the question of these anomalies, but let him face the full issue. I admit all these anomalies. I have made, as my colleagues amongst the Indian Delegates will remember, very much the same kind of speech at the Round Table Conferences that Sir Austen Chamberlain has been making now.

*Sir Austen Chamberlain.*

7151. Have I been making a speech?—Perhaps I should say that I have expressed very much the same views that Sir Austen is suggesting in the questions that he has just asked me. The difficulty is to find an alternative, and so far we have found very grave obstacles in the way of alternatives.

7152. Let me try to understand how the proposed system will work before I come to the alternatives. I gather from Sir John Kerr that in fact the present practice is and the future practice must be that the contact of the Member with the mass of his constituents must be indirect, that he meets only a few of his leading supporters and he leaves to them the instruction and education and persuasion of the mass of the voters ?—(Sir John Kerr.) I would say he meets a large number of his supporters—not only a few of his leading supporters—nothing like the whole thing. I do not say he has any public meetings attended by a large proportion of the constituents who live in that locality.

7153. Public meetings are only a part of the machinery here. A very large part of the influence which a candidate obtains is probably obtained by personal visits to his electors at their homes. There would be nothing of that kind ?—Visits to their houses would not be practicable, except in the case of a few, but they would if they were urgently interested in a matter like tariffs, which a lot of them are at present, I know, come and arrange to see their Member somewhere, and urge their views upon him.

7154. If they had a sufficiently strong view upon a subject, they would seek their Member out ?—Yes.

7155. But if they were indifferent, even though great issues were at stake, the candidate would have very great difficulty in reaching them ?—Considerable difficulty, yes.

7156. Have you made any calculation of what the cost of an election to the candidate will be in one of the great constituencies ?—In the same Appendix in the Franchise Committee's Report, there is an estimate of the cost to the candidate. We made inquiries about this, wherever we went, and, of course, the figures are very rough. It is not necessary in India at present and there is no maximum as there is in this country on the expenditure of a candidate, and, consequently, the returns are not altogether trustworthy ; but from such information as we could get, we take it that the cost of a general election to parties and candidates will be about 1 crore, or £750,000.

7157. I want to get at the expenses of an individual candidate. The case I put is that an issue has arisen on which a candidate desires at the General Election to take the opinion of the electors : He comes into the field a new man ; before he can do that, he has got to say : "Can I afford the cost of standing" ? What will the cost be to him ?—The cost varies enormously. Sir Malcolm Hailey has just told me that in his Province the cost varies from 8 annas to 35,000 rupees. (Sir Malcolm Hailey.) 8 annas is the lowest I have ever heard of. That was a Congress candidate. Thirty-five thousand rupees is the largest sum any of my friends have told me they have spent on an election, and I believe in other Provinces it has gone up to very much more.

Sir Tej Bahadur Sapru.] In my own Province I have known in my professional capacity men spending something like 50,000 to 60,000 rupees, but that is only in a few cases—just two or three cases, I remember.

Sir Austen Chamberlain.

7158. Unless the candidate is so popular that his election makes itself the expense will be prohibitive to any but a rich man ?—(Sir John Kerr.) I would not put it so categorically as that. I think in a great many cases there is very little interest taken at present in the elections to the Federal Council. In the Backward Provinces in which I have served it is often very difficult to get a man to go to the Central Legislature at all ; they are much more interested in Provincial affairs than in the sort of things that are discussed in the Central Legislature, and that accounts for the present fairly general lack of interest in the Federal elections. If in the future the Federal Legislature has to deal with matters which touch the rural population more closely, then I anticipate that there will be more interest taken in the elections, and the cost to the candidates and the parties will, presumably, go up.

7159. Is there any Corrupt Practices Act in India ?—Yes.

7160. But no maximum to the expenditure ?—No maximum has yet been prescribed. The Government has power to prescribe a maximum, but it has never

felt itself in a position to lay down what that maximum ought to be.

7161. My difficulty, Secretary of State, if I may put my point to you now, is to see how a system of the kind described, and in the conditions described, can be really considered to be in any way representative. Can you say anything to relieve my anxiety on that score. A candidate bound to envisage a very large expense if there is a hotly contested election ; a candidate unable by reason of the size of the constituency to get into touch with the electors whom he hopes to influence : and a voter voting for a man whom he does not know, a name or a ticket. That is the picture as I see it painted by you and Sir John Kerr. Have you anything to say upon that ?—(Sir *Samuel Hoare*.) Taking Sir Austen's last point first, the point that he made about the voter not knowing for whom he was voting. I do not know whether he had in mind the illiterate voter in that case.

7162. I mean any of the voters whom the candidate cannot reach, and who are dependent upon second-hand information about him ?—Yes ; there are, of course, as Sir Austen knows (I do not want to press this point unfairly) with the big constituencies here, cases in which there is much less contact with the Member than there used to be. To take my own case, with a very small compact constituency, there must be a great many of my constituents who have never had any personal contact with me. But I agree, the kind of conditions that we have assumed for a representative system of this kind, in many directions do not apply with these enormously great constituencies. But, Sir Austen will remember that that is so now. The difference that our proposals make is a difference of degree ; it is not a proposal for a new system ; and for better or worse, a system of representative government has been in existence in India now for many years, in which there can be very little of the personal contact between the Member and his constituents that we have here.

Marquess of *Lothian*.] My Lord Chairman, I do not know whether I should be out of order, but we have in this Room a considerable number of gentlemen who have actually had electoral experience under these conditions to-day, and would it be possible at some time

that they should state to the Committee how they actually operate these large constituencies and what their view is of their contact with their constituents ?

Sir *Austen Chamberlain*.] At the moment, I am supposed to be examining the Secretary of State, and I cannot examine the Delegates. They will, no doubt, find their own way of putting their view.

Mr. *Rangaswami Iyenger*.] I am going to tell my experience as a man who has canvassed 10,000 square miles.

Sardar *Buta Singh*.] And it is the same in my experience. We have got the greatest possible contact with every constituency in the Punjab.

*Witness*.] Sir John Kerr wishes to add a word to my last answer. (Sir *John Kerr*.) With reference to one point that was mentioned by Sir Austen Chamberlain, these 7,000,000 people who it is proposed should constitute the electors under the White Paper scheme, have already taken part in four General Elections for the Provincial Councils. They have already a considerable knowledge of public affairs, and a still greater knowledge of the public men who will be appealing for their support at future elections. It will not be a case (I am talking now only about the Federal elections) of people voting for candidates of whom they have never heard, and on issues which they do not know anything about.

Sir *Austen Chamberlain*.

7163. But a great part of the issues which Sir John Kerr has spoken of as being those which interest the electors most, will have been transferred under this scheme to the Provincial Assembly. The issues which will remain to the Federal Assembly will be, in the main, issues of high policy, far more remote from the daily experience of the electors, and the electors, therefore, will need a measure of instruction and guidance to be obtained by the discussion of these questions by the different candidates, far greater than they will require for the settlement of their local affairs, and, yet by reason of the size of the constituencies, that kind of education and information will be almost impossible, or so it seems to me ?—The point I wished to make was



that the 7,000,000 electors will know something about the people who are appealing for their support ; they will not be voting for entirely unknown men.

7164. The Lothian Committee observes that the Federal Legislature will deal with the major aspects of commercial, industrial and financial policy. How is the political education of this great mass of voters to be conducted ?—(Sir *Samuel Hoare*.) I suppose the Press would play a fairly large part.

7165. I suppose our safeguard in this country in regard to the Press is that if one of us is abused in one paper, one is probably defended in another ; but can you count upon the same diversity of judgment in the Press of India ?—We have got a good many representative Indian gentlemen here, some of them connected with the Press ; I do not know what their answer would be to that question. What would Mr. Iyenger say to that ?

Mr. *Rangaswami Iyenger*.] I certainly think that our Press will deal with questions connected with the large issues that arise in regard to the Federal Legislature in a manner more becoming and in a much more sober way than the kind of thing that I have found in certain journals of this country.

*Sir Austen Chamberlain.*

7166. Secretary of State, I will not press you any further. I will not press any further the difficulties which I feel in regard to the system of election to the Lower Chamber of the Federal Assembly in the White Paper. My purpose in putting the questions to you was to give you an opportunity of answering my doubts. But I pass to an observation of yours that we must consider the difficulty of the alternatives. The first alternative that would occur to one would be election to the Lower House of the Federal Assembly by the Provincial Legislatures. What are the obstacles to the adoption of that plan ?—You would then have the Provincial Councils electing for both Federal Chambers. Would you make any distinction between their voting ?

7167. May I pass over that objection for a moment, which would be met if the method of election to the Upper House or Council of State was altered.

Is there any inherent obstacle, apart from that, to having the Provincial Legislatures elect the Lower House of the Federal Assembly ?—No, I should not say that there is any inherent obstacle to a system of election of that kind. After all, we are proposing it as the method of election for the Upper House of the Federal Legislature.

7168. For these major issues upon which the Lothian Committee reports, do you not think you would get more suitable men from election by an informed Assembly, like the Provincial Assembly, rather than from so vast an electorate, so widely scattered as that provided in the White Paper scheme ?—I do not think my mind is sufficiently sure to enable me to give an answer to a question of that kind. It is so much a matter of surmise.

*Lord Eustace Percy.*

7169. I was wondering whether you could put that question in a somewhat different form, Sir Austen, if it would not be inconvenient to the Secretary of State ? May I ask the Secretary of State what are the practical objections to having no direct election to either of the Federal Chambers ?—The practical objections, I think, are two-fold. I think, first of all, there is the objection that I do not think anybody can ignore that political public opinion in India has got used to a system of direct election and, so far as I can gather, is very strongly against the substitution of indirect election for direct election. That is the first objection that we had in our minds. The second objection is of a different character. It is our difficulty in finding a suitable alternative. We have felt that there were objections against the Provincial Councils electing both Federal Chambers from the same electoral background. Next, when we came to the other alternatives, many of us were very much attracted to various systems of group voting in the constituencies. Sir John Kerr will be able to tell you that Lord Lothian's Committee went very carefully, and I believe also very sympathetically, into these proposals for group voting, and they did come to the conclusion, for reasons that Sir John Kerr and Lord Lothian can give you, that these group systems would not work. My answer, therefore, to Sir Austen and to

Lord Eustace Percy, is that the objections are, first of all, the objection of public opinion in British India, and, secondly, the fact that so far we have not been able to find a practicable alternative.

Sir *Austen Chamberlain*.] I recognise the force of the objection about public opinion. I do not think it is wholly conclusive because it is based on a past which is very different from the future which is contemplated by the White Paper.

Major *Cadogan*.] Might I add, you concede the principle of direct election. It is not as if we were denying the principle of direct election to India. They have got it in the Provinces. Is not that so ?

Sir *Austen Chamberlain*.

7170. I now want to turn to the Council of State. One of your objections to the election of the Lower House by the Provincial Assemblies is that already under your scheme they are the Electoral College for the Upper House ?—Yes.

7171. Your Upper House will consist of two classes, apart from the nominated men : of men who owe their seats to election, and of men who owe their seats to nomination by the Princes ?—Yes, and so, of course, will the Lower House.

7172. Have you ever considered whether the Upper House might not well be composed of representatives, not of Legislatures but of Government ; in other words, that the British-India representation in the Upper House should be put on what is *mutatis mutandis* the same footing as the States representation ?—Not only have we considered a proposal of that kind, but, as my Indian friends will remember, I myself have been at various times greatly attracted by it. There again my difficulty has been the difficulty of public opinion and the fact that (I quite admit, as Sir Austen Chamberlain has just said) in different conditions India has got used to a different kind of system.

7173. May I ask you whether, if you could persuade Indian opinion, you would not still favour the composition of an Upper House on that basis ?—Yes, I still hold the view that I have often expressed, during the last two years, that I think there is a great deal to be said

for a Federal Legislature constituted upon that kind of basis. My trouble has been that I have found very few people to support me.

7174. Would you agree with me that one argument in favour of that scheme would be that it would help to defeat centrifugal forces in India, and tend to bind the Federation more closely together ?—Yes, and that is one of the arguments that I have ventured myself to use in the past.

Sir *Austen Chamberlain*.] I should like to have all the other arguments, but I will not press you for them now.

Lord *Irwin*.

7175. Might I ask one question of Sir John Kerr, or the Secretary of State. On the question to which Sir Austen addressed his earlier inquiries, as between direct and indirect election, what importance, if any, would the Secretary of State or Sir John Kerr attach to an argument that is frequently used that if you have indirect election it would be likely to tend to have the effect of dividing Provincial Councils rather on the lines of All-India issues, and would therefore militate against what ought to be, I suppose, the desire of all who wish to see the thing work, namely, the free growth of political parties in the Provinces suited to the different conditions in the several Provinces ; that you would rather tend to get the All-India atmosphere into the Provincial Councils rather than its own atmosphere dividing on its own interests ?—I am inclined to think that an argument of that kind is rather double edged. After all, you may All-Indianise the Provincial Councils, but you may equally provincialise the All-India Centre. Seeing both those possibilities I do not think I myself could express a very definite view one way or the other.

Sir *Austen Chamberlain*.

7176. Of course, the objection, whatever it is, applies to the method of election proposed for the Council of State ?—Yes.

Mr. *Butler*.

7177. May I ask Sir John Kerr a question ? With reference to the new polling

methods proposed by the Franchise Committee do not you consider that these will materially help to poll the extra numbers proposed?—(Sir John Kerr.) Certainly. Most Local Governments assented to the practicability of our scheme, because they realised that this simplified polling method would very greatly facilitate the carrying out of the elections.

7178. Is it not true to say that this method is an improvement upon methods which have prevailed hitherto?—It is an improvement in every respect, I think, and it is generally admitted to be so both in the matter of secrecy and in the matter of getting the votes recorded accurately.

7179. Would it not be true to say when you were Vice-Chairman of the Franchise Committee you saw this method in operation and found it to be very successful?—Yes; I have seen it not only as Deputy-Chairman of the Franchise Committee, but also previously in municipal elections.

7180. Would it not also be true to say that on your recent tour in India, besides your previous experience, you had the advantage of hearing the evidence of District Officers who had themselves worked the scheme?—Yes.

7181. And that those District Officers considered that this scheme would work?—Yes. It was one of the few things that people were practically unanimous about—the certain success of this coloured box system of polling.

*Lord Hardinge of Penhurst.*

7182. I am going to ask the Secretary of State, if he will allow me, a question of principle. In England we have had for many generations a system of property qualifications. Little by little these property qualifications have been reduced until we have now shed them altogether. Why then introduce into India a system we have abandoned for ourselves?—(Sir Samuel Hoare.) I think for two reasons: Politically I should be against a great revolutionary change like the introduction of adult suffrage suddenly into India. Administratively I do not think it would work.

7183. Has that been seriously considered?—Yes. In our discussions we have several times had proposals for adult suffrage urged by one or other

member of the Round Table Conferences, and, indeed, Lord Lothian's Committee went into the question, and they came to the view that, quite apart from political merits, you simply could not work a system of that kind in the present conditions.

7184. Could that not be worked by indirect elections where a voter would represent 20 adults, say, because then it appears to me that everybody would have a chance of voting?—That is just the kind of alternative to which I was alluding in an answer to Sir Austen Chamberlain. We considered a number of these alternatives, and the Lothian Committee considered them in greater detail, and we have not been able to find a practical alternative; that is the trouble. I would like Sir John Kerr or the Marquess of Lothian to amplify what I have said upon the practicability of any of these alternatives. Would you say a word, Sir John Kerr, about the punchayets? (Sir John Kerr.) Originally three Local Governments were more or less in favour of trying an indirect system of election by groups in the villages. The first place we went to was Lucknow where Sir Malcolm Hailey discussed the matter with us at considerable length, and he put one of his officers, who had made a considerable study of the subject on to work out the scheme. We left Lucknow in great hopes that a scheme would be evolved which we could recommend. I may say that I personally, before I went to India, was very strongly in favour of this group system of election. Then we went to Bihar, and in Bihar, owing to various administrative difficulties in working an enlarged electorate on the direct system, the Local Government, or the majority of them, were keen on some form of indirect election. Then we got to Bengal, and we found the local Provincial Committee desirous of sweeping away all direct voting and substituting an indirect system in its place. They had not thought it out very much, but that was their feeling at the time. After that, all the other Provinces we came across were unanimously opposed to any form of indirect election. They had thought the subject out well, and their practical difficulties seemed to us extremely strong. Perhaps I might mention briefly what they were. First of all, there are the administrative difficulties of splitting up villages into groups.

I will stick to the case of villages at present because in towns the difficulties are entirely otherwise, but the towns only account for about 5 per cent. of the total electorate that matters. In the village you have either to form your groups according to caste, or not according to caste. If you form them on a caste basis you do go a considerable way towards perpetuating the caste system in public affairs, and the large majority of Indian public men feel strongly that that would be a fatal mistake. Then, if you discard the caste basis, you have got to go on some sort of geographical basis. You have to take the people living in a particular laue, or in a particular hamlet, or something of that kind, and we found on local enquiry in a considerable number of villages that these people really have no community of interest which enables them to join together and elect a mukhi or mouthpiece, as they call it. You cannot get 20 men, or 10 men of the upper castes and 10 men of the lower castes to unite on the person who shall represent them at the election. Then we were told, before we made our enquiries, that we were to assume that the communal distribution of seats was to continue—the Hindu, Muhammadan, and other smaller communities were to receive separate representation. We found there that there were very considerable difficulties in forming communal groups. Especially in Upper India in the non-Muhammadan Provinces, you will very likely find in a village perhaps only half a dozen or a dozen Muhammadans. All the rest are Hindus. Those Muhammadans are not sufficiently numerous to form into a group. If you join them on to the Muhammadans in some other village there again you run up against the difficulty of community of interest. The members of the group may not know one another by sight, and it seemed to be absolutely hopeless to form any groups at all. These were the main practical difficulties of the group system which led the majority of Local Governments in India to oppose it from the outset. When we got back to Lucknow we found that Sir Malcolm Hailey's Government had come to very much the same conclusion as the other Local Governments. They had been trying experiments with this group system, and they had found that it broke down, or, at any rate, did not

work very successfully owing to the difficulties that I have mentioned. One trouble, quite apart from the difficulty of forming groups, that we found was the introduction of party feelings (political feelings) in the villages which would have made the group elections very difficult to work. If the group system is going to be to any considerable administrative advantage, it has got to be easily worked in a friendly spirit. The majority of the groups have got to meet together and find out, without difficulty, somebody who will act as their mouthpiece. Nowadays Indian villages are in many cases so torn by internal factions, or perhaps by agrarian questions, questions of landlord and tenant, and the like that the group elections would inevitably have become highly contested. It would not have been possible to carry them out on a simple system. You would have had to have a register of voters, you would have had to have arrangements for voting by ballot, for counting the votes, and all the rest of it. The elections carried out on that system would almost certainly arouse a great deal of feeling. There would be appeals against the result of the elections, and somebody else would have to go back to the village and hold a fresh election, and all that kind of thing. We found official opinion in India for that reason almost unanimous that adult suffrage from the administrative point of view would be preferable to the group system; I mean, looking at it purely from the point of view of the amount of work and worry that it would entail. Then apart from that, we found that Indian public opinion, as I say, temporarily in Bengal, was unanimously opposed to elections being carried out on any system of that kind. Indian public opinion looks back to the old days of the Minto-Morley constitution, when this indirect election was the main way of choosing members of the Legislature through local bodies. The local bodies, District Boards and Local Boards and municipalities used to select Delegates, and those Delegates went to Headquarters and chose a Member for the Legislature. The amount of friction and intrigue to which that system gave rise is almost incredible except to those who like myself have worked a system of that kind. It all boiled down to this, that the Delegates

were instructed to vote for Mr. A. They voted for Mr. B., and when they came back very unpleasant stories were put about for the reason of their change of view. It was felt for those reasons that the group system in the villages of India would not form a sound basis for the election; that the secondary elections would have to be by ballot, and it would be impossible for the group electors to make certain that their mouthpiece had voted in the way that he was expected to do. For that reason, Indian public opinion was in the end almost unanimously against any sort of group system. We felt as a Committee that these were very definite disadvantages and drawbacks and that even if those disadvantages and drawbacks were not as strong as they seemed to us, it would be impossible to force a system of this kind on a country where practically nobody, either official or non-official, was in favour of it. Those were the reasons, my Lord Chairman, why the Committee decided not to recommend the group system for adoption.

*Lord Hardinge of Penhurst.*

7185. Thank you very much. I am very much obliged to the Secretary of State and to Sir John Kerr for the full explanations they have given of the objections to the group system. I would just like to ask one more question. There are now 7,000,000 voters, and I understand the Lothian Report proposes to raise this figure to 36,000,000. Of those 36,000,000 how many will be women?—(Sir John Kerr.) About 6,000,000.

7186. There are 63,000,000 women of adult age in India, are there not? Is that not a very small number—6,000,000 out of 63,000,000?—About 10 per cent. adult women.

7187. Is that based on literacy?—No; there are various qualifications for the women proposed in the White Paper; the first is that all women who have the property qualification in their own right shall be entitled to the vote, and we estimate that about 2,000,000 women will get it in that way. Then it is proposed that women who are the wives of voters for the present Provincial Councils should also have the vote. We estimate that they will come to about 4,000,000. Then it is proposed that the women who hold the educational qualification prescribed for men should also have the

vote, and in that way we get up to a total of something about 6,000,000.

7188. Do you think the women of India will be satisfied with only 6,000,000 votes?—I think the women in India who are capable of taking a part in public affairs will press for something more. But, of course, the illiterate women, and so on, will not feel at all strongly, one way or the other.

*Lord Hardinge of Penhurst.]* As long as we do not have an agitation in India, such as we had in this country 20 or 30 years ago, the Suffragette movement, that is satisfactory.

*Earl of Derby.*

7189. I should only like to ask Sir John one question. He has given very good reasons why there should be direct voting in India. In answer to a question he said that the present system worked well. He thought that with the increased electorate it would still work well. When asked another question: Suppose there was a manhood suffrage, would the present system work? his answer was: Not directly, not if it was put in force immediately. I think I am correct in that?—I said, I think, that it would be impracticable to adopt adult suffrage immediately.

7190. But I want to know: Eventually, do you think it will be possible, if there was manhood suffrage, for the present system still to work, to cover that manhood suffrage?—I could not say. It will be a great many years, I think, before manhood suffrage comes into view in India, and what the conditions will be then, I should not like to say.

7191. You say, it would work up to, roughly, 20 per cent. of the population?—That is what the Committee said. The Committee said that it would be impracticable to provide for more than 20 per cent.

7192. Therefore, after 20 per cent., another system would have to be adopted?—If it was going to be adopted at the present time, that is so.

7193. But do you think, if it came gradually, the present system might be elastic enough to cover more than the 20 per cent.?—It is very hard to say. It may not come for another generation, in my opinion.

*Lord Hutchison of Montrose.*

7194. With regard to the distances that individuals will have to go to the polling station, what is the average distance in a widely dispersed or thinly-populated area—what is the average distance of a polling station from the villages?—Between five and seven miles, not right out in the jungle, where there is no population at all, but in the ordinary cultivated area.

7195. So from the point of view of the practicability of recording the vote, they would not have an undue distance to go?—No, not at all.

7196. Then as regards election expenses, would the Governor-General have power to make rules and regulations as to the amount to be spent by a particular candidate?—(Sir *Samuel Hoare*.) He has at present. We are not contemplating that the Governor-General under the Federal Government would make a decision of this kind; we think it is essentially a matter for the Federal Government itself.

7197. In other words, to the Assembly itself?—To the Federal Government and the Federal Legislature.

7198. At the present moment, the Governor-General-in-Council has powers to make rules?—Yes. (Sir *John Kerr*.) And the Governor-in-Council in the Provinces.

7199. In relation to the representation of the Princes in the Upper House, would it be within their competence to change a representative inside the life of a Legislature?—(Sir *Samuel Hoare*.) I have never been able to see how you could prescribe in an Act of Parliament that they should not do so. I hope they will not do so, and I believe myself that if they accede to the Federation, they are most unlikely to do so. I do not see, however, how you can deal with it by a section in an Act of Parliament. After all, if you put a section into an Act of Parliament, it would be very easy for a Prince to get round it, if he so wished. For instance, he could insist upon his representative resigning, and there would be plenty of ways of getting round it. That all makes me think that it is better not to attempt to put anything into an Act of Parliament. That does not mean that we should wish or expect Princes to withdraw their representa-

tives. We do not; we hope their representatives will remain there during the lifetime of the Legislature, but we do not feel that we can make any prescription in an Act of Parliament against it.

*Mr. M. M. Joshi.*

7200. May I ask a supplementary question on this? Is it not possible to put something in the Treaty of Accession as regards the change of representatives of the States?—I see grave difficulties in the way of putting it either into a treaty or into an Act of Parliament.

*Mr. Cocks.*

7201. You know, of course, that the Lothian Committee states or expresses the opinion that if a system of responsible Government is to work satisfactorily, it will only be because the people feel that the Legislatures represent them. Are you aware that the Indian Trade Union Federation passed a Resolution stating that under this scheme there is no prospect of the Indian masses and the working classes ever securing an adequate and effective voice in the control in the Legislatures and administration of the country?—I take it from Mr. Cocks that such a Resolution has been passed.

7202. But are you further aware that they have given evidence now before the Sub-Committee that when they said that, they were not at all referring to safeguards but were referring to the franchise and composition of the Chamber, and it would still stand as their opinion if all the safeguards were swept away?—I take it that that is their opinion; it is not mine.

7203. We have been told that adult suffrage is impracticable for administrative reasons. Could you state what the objections are to the proposal that adult suffrage might be brought in in the cities with a population of 100,000 and over to start with?—I should not see any justification for making a distinction between urban and rural constituencies. We make no such distinction here.

*Major Attlee.*

7204. May I interpose a question here? You said we did not do it, but in the past, as a matter of fact, the urban labourers and the rural labourers were

enfranchised at different times ?—That is perfectly true, but I should be opposed to a provision that gave an advantage to an urban voter and did not give it to the rural voter. One of the main objects of our franchise proposals is to make an attempt to readjust the balance between rural and urban India. Rightly, or wrongly, we feel that the scales at present are over-weighted in favour of urban areas. One of the best aspects of our proposals is that we do attempt to readjust that balance.

Mr. Cocks.

7205. The suggestion is not that they should have more seats in the towns than in the country, but that the electorate should be extended in the towns ?—I should have thought there were grave objections to that. One that occurs to me, upon the spur of the moment, is the inter-change of population between rural and industrial India. I am informed that there are great migrations of rural labour into the towns, and vice versa. That would seem to me at once to raise a very grave practicable objection to the kind of proposal which Mr. Cocks has made.

7206. The Round Table Conference, the Franchise Committee, in considering the question of property qualification, suggested that that qualification should be used in its widest terms and include not merely ownership of property, but receipt of wages. A suggestion has been made that there should be a wage earning qualification. Have you anything to say upon that point ?—I am going to ask Sir John Kerr to deal with this question of detail. (Sir John Kerr.) The Franchise Committee went into that question of making wages a basis of the Franchise, and they found that there were very great difficulties in the way.

Sir Tej Bahadur Sapru.

7207. What page ?—Page 41, paragraph 85. The basis of any wage census in India must be the agricultural wage, and the agricultural wage is, more often than not, paid in kind rather than in money. It would be practically impossible to take a wage of that kind as the basis of a franchise system. There are variations in prices ; variations in the nature of the produce that the labourer

receives at different seasons of the year, and all sorts of complications of that kind. You would have to have an enormous staff, and there would be an enormous number of appeals and objections to any electoral system based upon matters of that kind. Of course, in the towns, where you have industrial labour paid in cash, the difficulties would be less serious, but even there, the vast majority of employers do not keep books or registers which would form a sound basis for working the system. It was for those reasons that the Franchise Committee decided not to recommend the adoption of wages as the basis for the Franchise.

7208. You are aware that Major Milner, a Member of the Commission, in a Note at the end, said that he considered the difficulties in the way of the wage earning qualification had been over-stated by the majority of the Commission ?—Yes. I have had many arguments with Major Milner about it, and I am very sorry I was not able to convince him that he was wrong.

7209. I am informed that it is the opinion of organised Labour in India that under this proposed system it will be absolutely impossible for a single Labour Member to be elected a Member of the Federal Council of State. If that is so, do you think that should not be remedied in some way ?—(Sir Samuel Hoare.) We do not propose that there should be the special representation of interests in the Council of State. I am not quite clear whether that is the point which Mr. Cocks is dealing with, or whether it is a different point.

Mr. Cocks.] There are two points. First of all, there is the property qualification for the Membership of the Council of State, which it is suggested would bar out any representative of Labour. Secondly, there are special seats reserved for Europeans and Indian Christians by means of special electoral colleges. Could not the same thing be done for Trade Unions ?

Mr. Zafrulla Khan.] My Lord Chairman, Mr. Cocks is no doubt aware that membership of a local Legislature itself will be one of the qualifications, but there will be a large group of the Depressed Class representatives in the local Legislatures, certainly drawn from the

Labouring classes : that each of them will be eligible for election to the Upper House on account of being a Member of the local Legislatures and most of them would be able to form a group to elect a representative from among themselves, if they so choose, to the Upper House. I hope he has that in mind, and is putting that question, subject to these considerations being there already.

Mr. *Cocks*.

7210. I agree with that, but the White Paper suggests a property qualification, and does not say what a property qualification should be, but if it is a high one they would be barred then?—We were assuming that Labour representatives would be elected in the kind of way suggested by Mr. Zafrulla Khan.

7211. Seeing that the Round Table Conference says there was general agreement that adult suffrage was a goal which would ultimately be attained, is there any objection to inserting in the new Constitution a provision for the periodical revision of the electorate in that way in a period of time?—I would have thought the wiser course was for us to insert in the Constitution Act a definite period during which no franchise alterations could take place at all. I think that is necessary in the interests of stability. I think after that period those questions are essentially questions for the Federal Government and for the Federal Legislature, and I would rather leave the subsequent period in their hands.

Sir *Tej Bahadur Sapru*.

7212. After the expiry of that period which you have in view, will you allow the Federal Government and the Federal Legislature to amend the franchise, to increase it or to broaden it?—That was the intention of my answer.

Marquess of *Salisbury*.

7213. Secretary of State, do I understand that the franchise as fixed in the Act will be alterable by the Federal Legislature without the consent of Parliament?—Not under the White Paper provisions, but I have always assumed that there must come a period when the Federal Legislature can make amendments. When that period should be is

a matter of discussion, but I think, looking to the future, there must come a period when the Federal Government, and when the Federal Legislature, should be free to decide upon amendments.

7214. Then that would be after another Act of Parliament, you mean?—No, because in this Act of Parliament we would say: "For X number of years there can be no alteration of the franchise." I am assuming that after X number of years the Federal Legislature should be able to deal with the question.

7215. That is a most important admission of the Secretary of State, because that means that a very important part of the basis of this Constitution is to be alterable without the consent of Parliament?—I think it is a matter for further discussion, in a matter like the franchise which, in my view, is very much a matter of Indian internal politics, whether after a period, whatever that period may be, there ought not to be some latitude left with the Federal Government and the Federal Legislature to make alterations.

Mr. *Zafrulla Khan*.

7216. So far as Federal franchise is concerned?—So far as Federal franchise is concerned.

Lord *Eustace Percy*.

7217. Have you made up your mind that that power, if it is given, should rest with the Federal and not with the Provincial Legislatures? I am thinking of the American precedent by which the franchise for the Federal Legislature is fixed by the States, and not by the Federation?—I think it is a matter of discussion. My only suggestion to the Committee is that there must come a period when the Legislatures in India must, or anyhow should in my view, leave a latitude given to them to make alterations.

Mr. *Zafrulla Khan*.

7218. May one assume that so far as Provincial franchise is concerned, that is to say, franchise qualifying people to become voters for elections to the Provincial Assemblies, when that period comes which you have in view the matter



will be left in the hands of the Provinces themselves if some such scheme is evolved?—I should think that is inevitable.

Marquess of Salisbury.

7219. The Secretary of State is aware that under paragraph 110 it is said to be outside the competence of the Federal and Provincial Legislature to make any law affecting the Constitution Act "except, in the case of the last mentioned Act, in so far as that Act itself provides otherwise." So, I suppose, there will be a special provision: The Secretary of State contemplates that this matter will be exempted?—There would certainly have to be a special provision (supposing it was agreed to have a provision of this kind) that these proposals would remain intact for X number of years. After X number of years provision would be made on certain lines for powers of amendment whether by the Federal Government, or whether by the Provincial Governments.

Sir Austen Chamberlain.

7220. Does that apply to franchise only or to the division of seats among various communities?—In the communal decision we do make provision.

Sir Tej Bahadur Sapru.] Ten years.

Mr. Zafrulla Khan.

7221. There was a possibility of change after ten years by His Majesty's Government?—This is the provision in the communal decision: "Provision will be made in the Constitution itself to empower a revision of those Federal arrangements and the other similar arrangements mentioned below after 10 years with the assent of the communities affected for the ascertainment of which suitable means will be devised."

Sir Austen Chamberlain.

7222. It is to be done only with the assent of the communities affected?—Yes; otherwise Sir Austen is right in saying that my suggestion refers only to the franchise.

Sir N. N. Sircar.

7223. I was going to ask the Secretary of State, if he will permit me: As

the communal decision stands it means this: Assuming, for the sake of argument, one Party has got more than it ought to have it must assent to that being given away before there can be any change at any time. You have got to get the assent of somebody who has got more than they ought to have?—If Sir N. Sircar makes that hypothesis it is so.

Sir Tej Bahadur Sapru.

7224. Pursuing this very line of thought which you have been pursuing just now, is it your intention that you will in the Constitution Act indicate the nature of the subjects which may be modified or amended after a certain time by the Indian Legislature?—Sir Tej raises the very big and important issue of constituent powers.

7225. Constituent powers?—That is a question which we must consider in detail.

7226. May I remind you that this question was raised at the time of the third Round Table Conference?—Yes.

7227. And also I raised it at the time of the second Round Table Conference, and the Indian view was that you must indicate in the Constitution Act itself the limits within which the Indian Legislature may go in amending the Constitution, and the conditions under which it may do so?—The trouble, of course, has been that so far we have found very little agreement upon the question. Sir Tej will remember that we have discussed this question, and my memory of it goes to show that there was very little agreement upon it.

Sir Tej Bahadur Sapru.] It was not discussed at great length; only one morning, and very casually.

Marquess of Salisbury.] Will Sir Tej tell me what the point is? I heard the Secretary of State's answer.

Sir Tej Bahadur Sapru.

7228. The point is that there must be some subjects which must be left for amendment to the Indian Legislature after a certain period of time, and the conditions under which those amendments might be made should be incorporated in the Constitution Act itself. It is a question of policy. We suggest there may be

classification of subjects which might be left to the discretion of the Indian Legislature for amendment laying down the conditions under which those amendments may be made. There are similar provisions to be found in other Constitutions. The South African Act provided that, so far as native affairs were concerned, they were not to be touched for ten years, and things of that kind. I am following that analogy. I am requesting Sir Samuel to consider this question, and see whether he can give us a list of subjects which he is prepared to recommend for amendment under certain conditions by the Indian Legislature?—We have considered the question at some length. If Members of the Committee and the Delegation would look at page 64 of the Report of the Third Session of the Conference, they will find a Memorandum on this subject. We really have got very little further than the position in that Memorandum. Our difficulty has been that when we have come to consider the kind of question to which these amending powers might be applied, we have found considerable disagreement amongst sections of Indian opinion itself.

Lord Rankeillour.

7229. Might I ask whether what the Secretary of State has said about possible amending power would apply to Appendix I of the White Paper, "Composition of and method of election to the British Indian side of the Federal Council of State"?—That is one of the questions, as I have said earlier this morning, that we have had in mind. It is a matter for discussion, whether within the powers of the Constitution Act some kind of power of amendment should not be given after a period of years.

7230. That will not apply to any conditions of the Instruments under the Instruments of Accession from the States?—No; it could not.

Sir Austen Chamberlain.

7231. Is it the intention of the Secretary of State at some time during our proceedings to make proposals of that kind to us?—Certainly; I think it is quite essential that in any Constitution Act, somewhere or other, there should be provision for constituent powers.

Dr. B. R. Ambedkar.

7232. I may draw attention to similar provisions in the present Government of India Act. There are certain sections mentioned in an appendix?—It is I think following the lines of every Constitution Act and following the lines of the Government of India Act itself.

Marquess of Salisbury.

7233. Would it include a power to adjust the relative representation of the States and British India?—No, not at all. I was not contemplating that kind of possibility at all.

Sir Tej Bahadur Sapru.

7234. Nor have we suggested anything of the kind?—No, it has never been suggested. All that has been suggested is that after a period of years some alteration of the details of the franchise should be allowed, and that I think is essentially a subject for discussion.

Marquess of Salisbury.

7235. I understand the Secretary of State is good enough to say that he will make some kind of communication to the Committee as to the sort of limits that he contemplates?—Yes, and I think, if Lord Salisbury would read the note upon constituent powers that was issued last winter—

7236. I have read it as well as I can at the moment, but I have not been able to appreciate it fully?—If Lord Salisbury will look at it again, always keeping in mind the fact that this is one of the questions which we have to consider and for which we have eventually to make some kind of provision in the Constitution Act, I think he will fully appreciate it.

Dr. B. R. Ambedkar.] It is the Fifth Schedule to the Government of India Act: "The provisions of this Act which may be repealed or altered by the Indian Legislature."

Major C. R. Attlee.] May I interpose a question arising out of Mr. Cocks's question as to the provision for increase of the franchise after a period of years: in the Simon Report it was stated: "This is a matter as to which the British Parliament cannot remain indifferent. If a

new Act of Parliament is to confer powers of self-government on the provincial councils, it should at the same time provide means for securing that these councils will in time rest on wider popular support than they can at present, so that the transferred powers may not remain in the hands of an oligarchy." That is paragraph 10 on page 94 of the second volume of the Simon Commission Report. Do I understand the Secretary of State differs from that view?—I am not assuming that changes of this kind are likely to restrict the franchise. My view rather is that this is essentially the kind of provision in which the Indian Legislatures themselves are most directly concerned, and it is a question for the Committee to consider, whether upon the kind of lines that I have suggested there should not be latitude given to them to make alterations after a period. It is an issue really between defining those powers in the Act or insisting upon a repealing or amending Constitution Act in the future. I incline rather to the first of those two alternatives.

Major *C. R. Attlee*.] That is diametrically the opposite point of view from the Simon Commission. They took the same point of view as Sir N. N. Sircar, that it is very unlikely that privileged classes will surrender their powers to somebody else unless there is express provision and held that the Commons was bound to make provision for future extensions in the franchise.

Lord *Eustace Percy*.] I should like to know what the Simon Commission did mean, because their report seems to indicate that, while Parliament cannot remain indifferent, Parliament must delegate powers to the Indian Legislatures to alter the franchise. That seems to me to be the clear meaning of the passage.

Major *C. R. Attlee*.] If the noble Lord will read further on he will find that provision was made that if within a certain time extension had not taken place, then Parliament should take action and set up a commission to see that it did.

Lord *Eustace Percy*.] I do not see how that is opposed to the Secretary of State's view.

Major *C. R. Attlee*.] Because the Secretary of State does not consider it is a matter for Parliament, but is a

matter that properly belongs to the Indian Legislatures themselves.

*Witness*.] I suggest to Major Attlee that it would be possible, really, to reconcile the two points of view. You give latitude to the Federal and the Provincial Legislatures, but you can, at the same time, retain the power in Parliament to legislate if it is satisfied that the Federal Legislatures and the Provincial Legislatures are not carrying out their duties fairly.

Major *C. R. Attlee*.] That is not the same thing as letting the Councils know that, unless they do progress, Parliament, under this Act, is bound to take action. You are leaving it perfectly vague.

Archbishop of *Canterbury*.] Would Major Attlee give us the reference to the Simon Commission Report.

Lord *Irwin*.] Page 94, paragraph 109 of the second volume.

*Chairman*.] My Lords and Gentlemen, it is my sad duty to inform the Committee and the Indian Delegates that Lord Burnham died suddenly last night. This is not the moment to recall his distinguished career or to refer to the great services in many fields, both in this country and throughout the Empire, which he rendered, but I may be allowed to express the profound sense of loss which we in this Committee feel, both Members and, I am sure, Delegates, at Lord Burnham's death, which deprives us of a valued colleague and so many of us of a true and trusted friend. Out of respect for the memory of the noble Lord, I think that the Committee would desire to adjourn now.

Sir *Tej Bahadur Sapru*.] My Lord Chairman, I would like respectively to associate ourselves with the tribute you have paid and with the sense of sorrow you have expressed.

Mr. *Zafrulla Khan*.] My Lord Chairman, so would I wish to associate myself with what has fallen from you at the loss the community has suffered at the sudden death of Viscount Burnham.

Sir *Akbar Hydari*.] My Lord Chairman, so would the Indian States.

Sir *Hubert Gidney*.] My Lord Chairman, may I on behalf of my community associate myself very sincerely with the

expression of sorrow and to say how much we appreciated Lord Burnham as a true friend of India.

Sir *Hari Singh Gour.*] As one who worked with Lord Burnham on the Simon Commission and knows his work and value, may I beg to associate myself

with everything that has fallen from your Lordship on the lamentable death of our friend, Lord Burnham.

Begum *Shah Nawaz.*] May I be allowed to associate myself with the expression of sorrow and loss, and to pay a tribute to Lord Burnham ?

(After a short adjournment.)

Mr. F. S. Cocks.

7237. I have only one more question to ask the Secretary of State. Secretary of State, taking into consideration the view that adult suffrage is the ultimate goal, is it in your mind that after a period of years the Indian Legislature may have the power of extending the Franchise but not of restricting the electorate ?—I do not think in my mind I had drawn any distinction between the powers of the Federal Legislature. I think I felt myself that if it is to be decided by the Committee, and by Parliament, to give these powers of alteration to the Federal Government and the Legislature after a period of time, then it is probably wiser to give that power without saying it shall be restricted one way or the other, but I would not like to prejudge the issue. It is a part of the more general question as to how future alterations in the Franchise should, or should not, be made.

Lord Snell.

7238. Secretary of State, I thought that in some words you used this morning, you were opposed to adult suffrage, or to a great extension of the franchise on political principles. Am I not right in assuming that you oppose it at the present time merely as a question of political expediency and practice ?—I do not wish to prejudge the future at all. I am, however, convinced that in the present circumstances it would be a political mistake. The change that it would involve would be too great, and administratively it could not be worked.

7239. All that I wanted to get from the Secretary of State was that he had not any firm conclusion in his mind as to the ultimate conditions ?—No, I think the ultimate conditions must be judged when they arise.

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Major Attlee.

7240. This morning Lord Salisbury was asking you some questions about the difficulties of conducting elections, and he referred to personation and registration, and so forth. Would it not be your experience that with the large constituencies which we have in this country now, those are not matters of any real importance as compared with the past ?—I would certainly say, yes, and I believe that it will be found in practice now that in a great many constituencies candidates do not bother about personation agents at all.

7241. The next point I want to take you on is with regard to the direct election to the Federal Assembly. I do not want to go over the ground which Sir Austen Chamberlain has already trodden, but the point I want to get is as to the reality of representation. Take, for instance, the provision for the representation of Madras, Madras non-Muhammadan general constituencies. You are to have, I think it is, 19 seats of which four are to be reserved for the Depressed Classes ; that means, therefore, that you will have four member constituencies. In effect, it means that the Madras Presidency of between 40,000,000 and 50,000,000 population will be divided up into four constituencies returning four or five members. That is inevitable, is it not ?—(Sir John Kerr.) 16 constituencies, is it not ?

7242. No ; but, surely, if you are going to have four reserved seats for the Depressed Classes, it involves multiple constituencies, does it not ? Therefore, it would probably be a matter of four seated constituencies ?—I do not know what the arrangements are proposed for that ; we have not gone into that at all, but there might not be so many as four multiple

constituencies ; we might divide the constituencies into two.

7243. Two multiple constituencies ?—Eight multiple constituencies, but, as I say, we have not gone into that at all. I do not think the local Government have gone into that either. (Sir *Samuel Hoare*.) Perhaps. Major Attlee forgets that under our proposals we contemplate a further Inquiry, presumably on the spot, actually to delimit the constituencies.

7244. Yes. I am merely taking what really must be the effect. The effect is that there must be multiple constituencies if you are going to have reservation of seats. It follows from that your constituencies must be very large in area ?—Yes.

7245. And it follows, too, almost inevitably, from the composition of the Madras constituencies that at least one of those constituencies will contain three linguistic groups, Malayalam, Tamil, and Kanarese ?—Yes.

7246. Is it possible, really, to look upon that as a proper form of representation for members, to represent an enormous heterogeneous area like that ?—I think it is open to a great deal of criticism. My difficulty has been to find a better plan.

Sir A. P. Patro.

7247. That will depend upon the allocation Committee, how the seats are to be reserved ?—Yes. In any case though, I cannot myself envisage any scheme that does not mean very big constituencies.

Sir Austen Chamberlain.

7248. Does the Secretary of State envisage a system which would always involve each constituency having more than one member ?—No.

Marquess of *Lothian*.] This only arises out of the Poona pact. This problem which Major Attlee is mentioning arises exclusively out of the Poona Pact.

Major *Attlee*.] I am dealing with the proposal in the White Paper where it is definitely laid down.

Marquess of *Salisbury*.] Major Attlee would help us very much, if he would say that again.

Major *Attlee*.] There are 19 general constituencies, and four seats are to be reserved seats for the Depressed Classes, and under the reservation of seats, you must have multiple constituencies or there can be no reservation.

Marquess of *Salisbury*.

7249. Under those circumstances, how large will these constituencies be ?—(Sir *John Kerr*.) If I may say so, there are to be 19 general seats in Madras according to page 90 of the White Paper, and four of those general seats will be reserved for the Depressed Classes. I am not sure, as I say, what the arrangements are going to be, but I think the idea was that these seats reserved for the Depressed Classes should be in areas in which the Depressed Classes are of real importance. They will not be scattered all over the Province.

Major *Attlee*.

7250. But if you look at the Madras returns, I think you will see that on any population basis at all, if you are to give a large number of the Depressed Classes a fair show, you must have a good many constituencies, because although there are fewer Depressed Classes as you go north, yet in all the southern districts they form a pretty big element ?—Yes, that is so.

7251. Therefore, unless you are taking it purely on a community basis, and are going to make up for the Depressed Classes having no representation in one area by giving it to them in a greater measure in another, you must extend your reserved seats constituencies over a fairly wide area in the Madras Presidency ?—Yes.

Major *Attlee*.] The point there is another instance of the extreme difficulty of direct election at the Centre.

Marquess of *Salisbury*.

7252. It is not suggested, is it, that one or two of these constituencies should have the privilege of returning representatives of the Scheduled Classes and

the other Scheduled Classes would be disfranchised?—No, it would not be one or two, but it probably would be the whole 19.

7253. How would the Scheduled Classes in the remaining number be represented at all?—They would vote in the ordinary constituencies. (Sir *Samuel Hoare*.) I think what is not clear to Lord Salisbury is the exact manner in which it is proposed to deal with the Depressed Classes. The proposal is to pick out, we will say, for the purpose of an example, three or four areas of the country in which there is a substantial number of the Depressed Classes and regard those areas as the channel through which the Depressed Classes are represented. They will, therefore, form the three or four Depressed Classes constituencies, but, in doing that, we are not disfranchising the other voters in the same area. They will be voting for their own member in their own way.

Sir *Austen Chamberlain*.

7254. Then do I understand, following that up, that if he is not in one of the selected constituencies, the representation of a member of the Depressed Classes cannot be one of his own class or caste, but will be such influence as he may have on the selection of a man of another caste, and, that equally in those constituencies which are reserved for the Depressed Classes, those electors who do not belong to those classes will have their representation confined to representatives from among those classes?—No; the other classes will be in the general constituency.

7255. What is meant by the general constituency?—The general constituency is not a special constituency.

7256. Is it meant that, taking 19 general seats for Madras of which four are reserved to the Depressed Classes there will be one area in which the Depressed Classes are in a majority, which will be made into a constituency returning four representatives of those classes, and that the rest of the area of Madras will be one constituency returning 15 members?—(Sir *John Kerr*.) No, Sir, I do not think that is the intention. The general idea is that if you have fifteen

four constituencies in which only the Depressed Classes will vote, and only members of the Depressed Classes will be eligible to be elected, that is 15 general constituencies, which means, in effect, caste Hindu constituencies.

Major *Attlee*.

7257. I do not think you meant to say that. You are now describing special constituencies of the Depressed Classes?—Yes, I made a mistake, I beg your pardon; not special, but general seats.

Earl *Peel*.

7258. Is it not fair to say that these seats specially reserved for the Depressed Classes is a special advantage for these classes? If you did not reserve them they might not get representation at all in the Centre? So far from being disfranchised, they get a special advantage?—(Sir *Samuel Hoare*.) That is so. I think Sir Findlater Stewart could amplify the answers which Sir John Kerr and I have just given. (Sir *Findlater Stewart*.) Out of 19 general seats, as I understand it, 11 would be ordinary constituencies, in which any Depressed Class voter qualified, could vote. They vote like anybody else, and, indeed, if one were lucky enough, they could stand and get elected, though it might not be very likely. In addition to these 11, what we call ordinary constituencies, there will be four plural constituencies—four double-member constituencies. In each of these double-member constituencies, which will be selected because the Depressed Class men are rather thicker there, a Depressed Class man must be returned as one of the two. That is, you will have four concentrated Depressed Class constituencies in which a Depressed Class man must be returned. You will have 11 ordinary constituencies in which a Depressed Class man may vote, if he is qualified, and, indeed, in which he may be elected.

Chairman.

7259. Is it the intention that persons not members of the depressed classes should be allowed to vote for a candidate of the depressed classes if they so desired?—Yes, after he has been selected

by a primary election. The Poona Pact was to this effect : I think there was a primary election by which four depressed class men were selected ; these four depressed class men then go to the polls in the ordinary election, and the whole of the Constituencies, the plural member constituencies, then select the depressed class man from amongst these four.

Marquess of Zetland.

7260. May I ask one supplementary question ? With regard to those four constituencies which will return Depressed Class representatives, will they overlap territorially more than four of the general constituencies ?—I do not think it has been worked out, but I think they will be chosen not to overlap. The whole area of Madras will be divided up into 15 areas ; 11 of these, as I see it, will be of the ordinary kind.

Dr. B. R. Ambedkar.

7261. Fifteen will be general ?—I make 11 ordinary, making 19 in all ; 11 single members and four double members.

Mr. Zafrulla Khan.

7262. May I put one question to Sir Findlater Stewart to clear up one aspect of it ? I merely want to understand it. Supposing a panel of four is chosen and then they proceed to contest this particular constituency reserved for them amongst themselves. One knows if a contest comes forward, everybody will vote who can vote in a general constituency, but supposing three of them say : "We do not wish to contest this election," would it be possible for them to withdraw before the election takes place ?—It is an interpretation of the Poona Pact. (Sir Samuel Hoare.) What does Dr. Ambedkar say ?

Dr. B. R. Ambedkar.] That is the view, that it is not obligatory upon all four of them to contest.

Sir N. N. Sircar.] That is the view, but that is not the language used.

Mr. Zafrulla Khan.] Another aspect is, are the Depressed Classes in any of these particular constituencies bound to put forward four candidates ? Supposing they put forward only one, will the terms

of the Pact be complied with ? What does His Majesty's Government understand the Pact to mean in that respect ?

Sir A. P. Patro.] The purpose of preliminary election will be defeated. What is meant by preliminary election is electing four people for a seat ?

Sir N. N. Sircar.] Dr. Ambedkar will vouch that I am putting the interpretation which was understood at the time of the making of the Poona Pact. It was understood that the Depressed Classes should have the liberty, instead of electing four, to elect one only. In that case, automatically the one got through.

Dr. B. R. Ambedkar.] That is quite right.

Mr. Zafrulla Khan.] If they put forward four, one could withdraw.

Dr. B. R. Ambedkar.] Yes.

Marquess of Salisbury.

7263. So in that case, the Depressed Classes will select the man they like and he will go through, necessarily ?—Yes.

Sir A. P. Patro.] Without any contest, because it is only a single candidate that has been put forward for that community, and he will be elected along with the other candidate who stands for a general election.

Sir Austen Chamberlain.

7264. Let me assume that one of these two-member constituencies is presented by one nominee of the Depressed Classes and three other candidates, the three other candidates come out at the head of the poll, and the nominee of the Depressed Classes comes out at the bottom of the poll. That is the hypothesis—it is an extreme one. I understand that the Returning Officer would declare that the man at the top of the poll was elected and the man at the bottom of the poll was elected ?—(Sir Findlater Stewart.) Yes, that is so.

7265. And inasmuch as there are only four Depressed Class representatives to be chosen in that form, and if the Depressed Classes choose to nominate four, they must occupy a seat in each of these four double-member constituencies, why are they not returned direct instead of

going through a form of election which is a farce?—(Sir *Samuel Hoare*.) Sir Austen is now raising a very big question, and the whole question of separate electorates, an issue particularly in its application to the Depressed Classes that has created almost more controversy than anything in India. This was the result of a Pact, accepted as we understood it, by the accredited leaders of Hinduism and the Depressed Classes. This was the plan upon which they agreed. As they are agreed to the plan, and we felt it was within the terms of our communal decision, we accepted it; but if he puts the question: Why not separate electorates? he will find that although theoretically he may have a good case for it, it will stir up a most enormous amount of controversy.

Major *Attlee*.] I think Sir Austen has confused two number fours. There happen to be four Depressed Classes' seats in the Madras Presidency, but the provision for representing the Depressed Classes is that in each constituency they should choose a panel of four and should go forward for the election of other candidates.

Sir *Austen Chamberlain*.] It is not that they should choose four for the four reserved seats, but four for each of the reserved seats?

Major *Attlee*.] Yes.

Sir *Austen Chamberlain*.] I am much obliged to Major *Attlee*.

Mr. *Zafrulla Khan*.] I do not want to create any further controversy, but I rather understood it in a slightly different sense from what Sir Findlater Stewart has explained. I understand it in this way: 15 general seats to be filled in the ordinary way; that four constituencies, which may coincide with four of the 15 to be selected which will return only a Depressed Class member, and that Depressed Class member to be returned on this basis: that a panel of four is first to be selected by the Depressed Classes' electors within each constituency, and then those four are to contest among themselves for the seat, and at the final election each qualified voter would vote. Is not that rather the case? I thought it was not going to be a double member in regard to some constituencies.

Major *Attlee*.

7266. I think Mr. *Zafrulla Khan* must be wrong, because the probability is that there will be no such electors on the franchise as at present, because they are elected by the other castes?—(Sir *Samuel Hoare*.) My Lord Chairman, I think Major *Attlee* has raised this question mainly for the purpose of emphasising the size of the constituencies. A detailed discussion has arisen out of that general question, and I am inclined to think that the best plan would be for me to put in a Note as to how these Depressed Classes' constituencies will really be worked. It is rather a complicated and technical affair, as we have seen in our discussions, and I think that will probably be the best plan.

*Chairman*.] We shall be obliged if you will do that.

Major *Attlee*.

7267. I am afraid I started an extraordinary hare; it was not the one I was hunting. The point I wanted to get at was with regard to the reality of representation. The Secretary of State gave me a reply yesterday when I was asking about the prospects of forming parties, and he suggested that those parties would be much more regional than they are going to be between one type and another. If they are going to be more regional, the divisions of parties, is not that a reason for having the representation through the Councils rather than by direct election, if those are to be the divisions?—I am finding myself in a great difficulty in answering questions of this kind because I have so often myself made the argument that is in Major *Attlee*'s own mind. But I have always come back to the very difficult obstacles in the way, if one does not adopt a plan of this kind. I think I would agree with the view that he has just expressed in his question.

7268. The next point I take will be with regard to the issues at the Centre. Would it not be true to say that, apart from finance, and so on, the Legislation passed at the Centre will most probably have to be implemented in the Provinces? That is to say, anything like social legislation and labour legislation—the actual carrying out will be in the Provinces for the most part?—It would certainly be true to say that the machinery,



for the most part, and, indeed, almost entirely, will be the Provincial machinery.

7269. And, therefore, would it not be useful that the people who will have to have the responsibility of administering these Acts, should be as closely connected with the Centre as possible? Otherwise you will have people with no responsibility for carrying out these Acts, passing them cheerfully at the Centre, and leaving the Provinces to bear the brunt of carrying them out?—I think there is a good deal to be said in favour of Major Attlee's suggestion.

7270. There are only two points with regard to the question of indirect election. There is just another one: At the present time there is a comparatively limited franchise at the Centre?—Yes.

7271. Although we may be legislating for a certain time, one would suggest that some time or other that franchise might be extended at the Centre?—Yes.

7272. If you got at all far in that, would not your constituencies for the Centre become quite unworkable by reason of the number of electors, or alternatively, your Federal Assembly become quite unworkable by the large number of members you would have to have sitting in it? Therefore, is it not the fact that this provision for the Centre does not really allow, at all events, for groups of the franchise?—I think it is very difficult in practice to avoid the kind of dilemma that Major Attlee has suggested.

7273. What I am trying to get at is, that granted the difficulties of the other members, I am trying to weigh the difficulties that exist already?—Yes, I see.

7274. Now one further point has been put forward, and that is that India has become accustomed to a system of direct election, and it has worked?—Yes.

Major Attlee.] But has it not generally been said by observers that the connection between those elected to the Centre and the electors is extremely slight?

Mr. Rangaswami Iyenger.] No, not to my knowledge.

Major Attlee.] If that is the case, I can only say that it has been said to me by persons elected to the Central Legislature.

Witness.] I would myself put the answer in a rather different way. I would say myself from the information that is available to me, that the contact between the member and his constituents is closer in the Provinces than it is at the Centre.

Major Attlee.] There is a further point with regard to what has been suggested, that is the question that the issues at the Centre might be different from the issues in the Provincial Legislature. Will not it be extremely difficult in these very large constituencies to get any issue other than a very simple one put across? I put that because I think probably Mr. Rangaswami Iyenger had a very simple issue, namely, that of nationalism, to put across but it is not such a simple matter in every case.

Mr. Rangaswami Iyenger.] May I deny that it was only very simple issues?

Major Attlee.

7275. The franchise for the Assembly is such that only the well-to-do classes will be represented at the Centre. Is not that so, almost certainly?—The franchise under the present system or under the White Paper?

7276. Under the system proposed you are going to have a limited franchise, that is to say, a franchise confined on the whole to the better off classes, a constituency that will cost a very great deal of money to fight?—Yes.

7277. Therefore it is practically certain from all experience that only the wealthier classes will manage to get into that Assembly?—Or the classes supported by big organisations.

7278. Except for a few special seats here and there given to Depressed Classes, and so forth. Broadly speaking, the make up of the Centre will be what you call Conservative or well-to-do?—It will certainly be constituted upon a definitely higher franchise than the Lower Chamber under our proposals.

7279. One of the Central subjects is Labour laws, is it not?—Yes.

7280. Do you think there will be adequate representation at the Centre for dealing with technical matters of Labour legislation when the Labour representatives will be very very slightly represented there at all?—Major Attlee will

remember that we made provision for ten special Labour seats in the Lower House, page 90 of the White Paper.

7281. There will be an inconsiderable fraction in the House, and they are unlikely to find any other persons coming from that class ?—There are also 19 members of the Depressed Classes; presumably drawn from the labouring classes. Major Attlee should also remember that, speaking generally, Labour legislation is concurrent, both the Centre and the Provinces having powers of legislation.

Major Attlee.] But it has, I think, been brought out in evidence that it would be undesirable to have separate Labour codes in adjacent areas on most subjects.

Mr. Morgan Jones.

7282. I have only one question, following up the point which Major Attlee put to Sir Samuel. He quite rightly pointed out that there are 19 Depressed Classes representatives, and a certain number, 10 Labour special, but there are also eight Europeans, are there not, and 11 Commerce and Industry ?—Yes.

7283. What is the special case for so relatively large a representation for the European section as compared with the special representation of Labour ?—That is a very difficult general question to answer. We felt that the European interests were so great in India that we must give them adequate representation.

7284. But they would be mainly commercial, would not they ?—Yes.

7285. Commerce and Industry also has 11 special seats ?—Those would not all be European.

7286. No, I quite appreciate that, but anyway they do represent Commerce, whether it is European or Indian ?—Will you repeat that ?

7287. I am sorry : It is true that Commerce and Industry is not specially reserved for European Members. That is quite true ?—Yes.

7288. But they do represent Commerce whether it is European or India ?—Yes.

7289. Therefore it may be assumed that they will look after the interests of Europeans and Indians from the point of view of commerce ?—It is very easy

to say that one or other of these groups ought to be bigger or smaller, and it was really one of the most difficult decisions we have had to make, and I imagine it was one of the most difficult recommendations that Lord Lothian's Committee had to consider. Upon the whole we feel that we have held the balance fairly between these various interests. Perhaps either Lord Lothian or Sir John Kerr, would add a word from their own experience of the actual enquiry in India on these matters. Would you say a word, Sir John ?—(Sir John Kerr.) The great difficulty is—take the case of the Europeans, for instance ; there are eight altogether.

Sir Hari Singh Gour.

7290. Fourteen, because see the footnote ?—I will take the European seats pure and simple, they number eight. That is eight seats in eight provinces, One seat to each province in which the Europeans are of any importance. What we felt was that you cannot cut them down below one, very well.

Mr. Morgan Jones.

7291. How do you cut down the labour, how do you allocate the Labour special, 10 ; one to each Province ?—Labour is not a community like the Europeans.

7292. But it has very vital interests ?—Organised industrial labour is not to be found in all the Provinces. The Labour seats are distributed according to the importance of organised labour in the various Provinces. There is only one in the whole of Madras, although Madras is the most populous place in India.

7293. I am not making suggestions about European representation, although I have my own views about that, but I am comparing the Labour representation with it as being, in my opinion, an unjust balance. Sir Samuel said, in his opinion, these representatives will safeguard and watch the interests of Labour in the Lower Chamber, as I understand it. When these Bills go into the Upper Chamber, and are there discussed, who is to look after Labour there ?—(Sir Samuel Hoare.) It is perfectly possible that the Councils, amongst the Members

of the Second Chamber whom they elect, will elect Labour representatives. Labour representatives are not disqualified from being elected to the Second Chamber. They have their chance just like anybody else.

7294. Just as much chance as I have of election to the House of Lords?—I am not sure whether that is so, when one takes into account the number of depressed classes representatives in the Provincial Councils. (Sir *John Kerr*.) In Madras, for example, there are 30 depressed class representatives, and six Labour. That is 36 Members in a Council of 215 who will be able to unite and get a Labour Member sent to the Council of State, if they so desire.

Mr. *Zafrulla Khan*.] Or more than one. Two, I think.

Mr. *Morgan Jones*.

7295. To secure one representative?—Possibly one representative; perhaps more than one. (Sir *Samuel Hoare*.) It might be one, two, three or four.

Mr. *Morgan Jones*.] I see that point.

Marquess of *Lothian*.] Secretary of State, referring to Sir Austen Chamberlain's general thesis, would I be right in saying that the almost universal principle upon which Federal Governments have been constructed in the past has been that the Upper House has represented the units and the Lower House the nation, that is to say, the Upper House has been elected largely by the Provincial Legislatures, or by the Provinces or States voting as a unit, and the Lower House has represented direct constituencies, and therefore represented the nation. I think that is universally the case.

Sir *Austen Chamberlain*.] Is that true of the Commonwealth of Australia?

Marquess of *Lothian*.

7296. I think so?—I would accept the view of a great Constitutional expert like Lord *Lothian* on a matter of that kind. I cannot say offhand myself whether it is so or not.

7297. I think you will find that that is, I will not say absolutely without exception, but certainly the general rule. May I follow a little further what would be the effect of making the Central Legislature wholly representative of the units,

namely, the Upper House the representatives of the Governments, and the Lower House the representatives of the Assemblies. That would mean that the Central Legislature would be wholly representative of Provincial opinion? It would tend, would it not, to mean that the Centre would be a combination, possibly conflicting, of Provinces, and not a body representing the nation as a whole?—I suppose that would be so, but I am inclined to think that in any case the representation will be to a considerable extent Provincial.

7298. It will certainly in the Upper House?—I should have thought in the Lower House also with Provincial constituencies. I think the Provincial atmosphere will be pretty strong.

7299. It will. May I take it a stage further by way of comparison?—Yes.

7300. Let us take the analogy in Great Britain of the London County Council, which represents the capital City, and a very large number of voters. Supposing the National Legislature were wholly composed of people elected by the London County Council, the great City Corporations of the North and County Councils, would not it have the inevitable effect of wholly blurring the line of demarcation between those two powers, and having one of two effects, either that the London County Council election would turn wholly on national issues, or that the National Government would be wholly controlled by the County Councils and by the London County Council?—I know that that argument is often used, and it is a very strong argument, and I would not like to say that it does not impress me. At the same time, I do think it can be pushed too far. If I take now my own experience on the London County Council (and here perhaps Lord Peel, with his even greater experience would confirm me or contradict me) I am inclined to think that if a great body like the London County Council had to nominate representatives for one or other Central Chamber in England, they would take the election on its own merits to a great extent anyhow, and that considerations other than purely London municipal considerations would enter into the election. But that is just a matter of opinion. What would Lord Peel think about it?

Lord Peel.] I should very largely agree with the Secretary of State, because when these men are elected, and if they were gathering together to form an Electoral College, I should think two things. One is that they would regard themselves as an Electoral College for that purpose, and, secondly, having been elected a great many times on the London County Council, I think they would elect me for my views on municipal subjects and they would not bother me very much with national and Imperial subjects, and, therefore, I should be pretty free to exercise my view as an electoral unit of that County Council.

Lord Eustace Percy.] Supposing the burning question of national politics was how much grants in aid the Local Authorities were going to get from the Exchequer which is going to be the situation at the beginning of the Constitution, do you then think that you would be left wholly free by the London County Council to exercise an independent judgment on that matter.

Earl Peel.] I was wondering whether the units in India would be more disinterested, possibly, in that matter.

Lord Eustace Percy.] I have not seen any signs of it.

Marquess of Lothian.

7301. What I am driving at is this. I think the system is a sound one when applied to the Upper House, but when you go on to say that the whole of the legislative apparatus, and therefore the Ministry, at the Centre is wholly elected and controlled by the Provincial Legislatures and the Provincial Governments, either the Provincial point of view will become completely predominant and overrule the national point of view, or the Provincial elections will turn upon and be hopelessly blurred by national considerations?—I still think Lord Lothian is stating the case too high, but I do not want to give an answer which implies that I disagree with his general fear that this kind of thing may happen, supposing we adopted these lines of election. I think there is a risk.

Marquess of Lothian.] I am giving what seem to me to be very powerful arguments for the proposals in the White Paper. You will understand that. May

I turn to the second question of the possibility of contact between the constituents and the members in the Central Assembly?—I do not propose to raise the question on the personal side, because I am sure the Indian Delegates will deal with that much better than I can; but it has been suggested by Major Attlee that, supposing you begin with the proposals of the White Paper, you are launching a system which will not be able to carry to its logical conclusion under any circumstances the adult franchise. Have you studied the conditions in America, where, if I may read a section from the Franchise Committee's Report, the area of the United States is three million square miles, of which a third consists of thinly-populated mountain territory. The population is 122 millions. The number of members of the House of Representatives is 435, or one for every 6,958 square miles and 282,000 of the population. That is one page 166, paragraph 403. That is the basis for the Lower House. In the case of the Senate the number is 96 and two members are elected by each State voting as a single constituency, of which the largest is New York, with an area of 49,000 square miles and a population of 12½ million. Therefore, I venture to suggest that, as a matter of logic and leaving out of account the conditions in India to-day, which at this moment clearly are not comparable, there is nothing inherently impossible in developing a system with very large constituencies containing very large numbers of voters, because it has worked in practice in the largest democracy in the world.

Sir Austen Chamberlain.] Are we going to discuss how it has worked?

Marquess of Lothian.] May I answer Sir Austen Chamberlain?

Witness.] I think that is so, but it must obviously depend on means of communication and all the other methods actually available at the time.

Marquess of Lothian.] That is exactly why the proposals of the White Paper are for a much narrower basis, but I was dealing with the valid argument put forward by both Sir Austen Chamberlain and Major Attlee, that you are starting a system which cannot possibly be extended beyond its present basis, and I

think there is no dispute that the experience of the United States shows that it is not inherently impossible.

Marquess of *Salisbury*.] I see my noble friend calls them astronomic numbers.

Marquess of *Lothian*.] So they are.

Marquess of *Salisbury*.] It is unusual to use astronomic numbers when you are dealing with terrestrial matters.

Major *C. R. Attlee*.

7302. We have no proof that if the population of the United States went up to that of India that system would work ?—We have also to take into account the fact that the population of India increases very quickly, and at the present rate, in 30 or 40 years' time, it will be immensely greater than it is now ; but all these questions are really questions for the future. I am sure of that.

Marquess of *Lothian*.

7303. I do not want to discuss the women's franchise in detail, but there is a point of some importance I think to be brought out at this moment. According to the White Paper, 14 per cent. of the population of 27 per cent. of the adult males, would be enfranchised : that is about 35,000,000 people. You estimate that one-seventh of those will be women, according to the White Paper. Is not that correct, Secretary of State ?—Yes.

7304. That is to say, your proposals are based on the assumption that there will be about 5,000,000 women voters ?—Yes.

7305. Of those, 2,000,000 will be property-owning women ?—Yes.

7306. The number who will be enfranchised on the educational qualification will be very small ?—Yes.

7307. Much less than 100,000 ?—Yes

7308. That is to say, your own proposals are based on the assumption that 3,000,000 women will be on the roll in respect of the wives' qualification ?—Yes, roughly that is so.

7309. The total number of women who will be enfranchised on the wives' qualification, if they are all put on the roll, is only just over 4,000,000 ?—Yes.

7310. You would therefore expect, on your calculations, that 3,000,000 out of

the 4,000,000 wives will in fact apply for the vote ?—Yes, if not in the first election, in the subsequent elections.

7311. On that assumption you think it is administratively possible to poll 3,000,000 women voters as wives ?—I myself think it might be difficult at the first election.

7312. But your own proposal contemplates that they will do so, because you say it will be one-seventh ?—It is so difficult to say, really, how many women will or will not vote at the first election. It is very difficult to say how many will apply at the first election. We have based our estimates upon what we think is a fair figure, and we have also based our proposals upon what we believe to be manageable, at any rate, at the first election.

7313. That is exactly what I want to get at because you have said that one-seventh of the electorate would be women, which means that 5,000,000 women would be on the roll, of whom 3,000,000 would be wives who had made their own application. That is the basis of your proposal ?—Yes.

7314. Therefore, you are contemplating that it is administratively feasible to have 3,000,000 wives on the roll ?—(Sir *John Kerr*.) On application.

7315. On application ?—(Sir *Samuel Hoare*.) Yes.

7316. Would it be saying too much to say that it could hardly be administratively impracticable to put 4,000,000 wives on the roll if you admit that it is administratively practicable to put 3,000,000 on ?—Our difficulty in dealing with the question of the women's vote has really been twofold. First of all, we have found the greatest possible objections urged, I think in almost every Province in India, against a differential education qualification for women. Secondly, we have had very strongly expressed views that it would be well to move cautiously and that there may be considerable trouble, anyhow, in certain Provinces in attempting ourselves, at any rate for the first election, to put the wives on the registers. Social conditions being what they are, it has been impressed upon us that it would be wiser, at any rate at the start, to leave it to the women actually to apply. Those in a sentence or two

are the two main reasons why we make these proposals, first of all, for removing what was originally proposed by the Lothian Committee, namely, a differential educational qualification for women as distinct from men, and, secondly, by saying that, at any rate at the start, the wives should get on the register by application.

7317. Would I be correct in drawing this inference, Secretary of State, that unless three million wives out of four millions do in effect apply and get on the register, the number of women voters will be much less than one in seven, which is what you say?—Then, quite obviously, Lord Lothian must compare that figure with the number of men who actually vote.

7318. They have not got to apply to be put on the roll?—No; but if he is taking the percentage of the women who actually vote, he must then take the percentage of the people who vote.

7319. No, I am talking of the number of people who have the right to vote?—I would still say that the right to vote is one in seven. The right is there to apply or not, as they wish.

7320. It is only one in seven on the assumption that three million apply?—The woman's right is exactly the same for the purpose of applying to vote as it is as to whether she registers her vote or not, it seems to me.

7321. No, because the men are put on the roll without having to apply and the women are only put on if they do apply. Your calculations that the proposals involve on the roll one-seventh of the total electorate being women are based on the assumption that out of four million women who are wives of existing council voters, three million will apply to be put on the roll. If that does not come true the proportion of women will be much less than one in seven. If it is true, I am wondering whether the administrative arguments against application have not been over-estimated by the authorities in India, because it only means a million more—four million instead of three million?—It is not only a matter of numbers, it is a matter of social conditions, and we have received some grave warnings from one or two Provinces that, at any rate for the first election, if we sent

round people inquiring into details in families with a view to putting women on the register, there might be considerable trouble.

Mr. M. R. Jayaker.

7322. Does the Secretary of State agree with the view taken by many people in India, especially women, that if the necessity of applying is strictly insisted on the three million women voters would be seriously reduced?—We have not got any accurate estimate upon which we can base our view. Certain Provinces think that a very large number of women would apply. Others think that the proportion would be much smaller.

Sir Tej Bahadur Sapru.

7323. Could Sir Samuel Hoare give us an idea as to what view has been put forward by the various women's organisations in regard to this requirement about application. My impression is that they are very much opposed to it?—I think that is so. I think the women's organisations, as they would be expected to be, are opposed to the principle of application.

Mr. M. R. Jayaker.

7324. And some of them have serious apprehensions that if this requirement of application is insisted on the three million number will be seriously reduced?—I think we may take it that that is the case.

Mr. Morgan Jones.

7325. May we take it it is the men's organisations who have advised this extreme caution?—No, it is the Provincial Governments mainly.

Begum Shah Nawaz.

7326. Is there a single woman in the Provincial Governments?—No, I do not think there is.

Sir Akbar Hydari.] Would it not be that if you left it for application then the proportion of women voters who actually went to the poll would be much greater than the proportion that it would be if you automatically brought in every woman voter and left her to vote or not. In other words, would it not be that the

mere fact that a person applied to vote meant that that vote would be really used effectively and therefore the proportion that would exist between those who actually went to the poll if you insisted upon application was a much greater one than in the other case and therefore the ultimate number voting was practically the same ?—Have I made myself clear ?

Begum *Shah Nawaz*.

7327. May I suggest then that this should apply equally to both men and women ?—We are doing it, the Begum will remember, with the men for the educational qualification. Sir John Kerr reminds me that in Ceylon it was expected that not many women would apply. In actual practice, very large numbers did apply.

Sir *Austen Chamberlain*.

7328. If you put a voter on the list without any action on his part, you have no means of knowing whether he takes enough interest to go to the poll, or not ; but if the voter has applied to be put on the list, you may be pretty certain that he is going to use his vote, may you not ?—I would have thought so.

Sir *Austen Chamberlain*.] That I understand to be Sir Akbar Hydari's question.

Sir *Akbar Hydari*.] Yes.

Sir *Austen Chamberlain*.] If I found my name was omitted from the Register and took the trouble to get it put on, it is a pretty clear indication that I meant to use my vote.

Marquess of *Lothian*.] Are you in favour of making the condition of application apply to the men, as well as to the women ?

Sir *Austen Chamberlain*.] I am not referring to the condition ; I am talking about the results. When you are considering the number of women who vote, if there are 3,000,000 women who have applied for their names to be put upon the list, the larger proportion of that 3,000,000 will vote than of 3,000,000 men who have not applied to have their names put on the list.

(*The Secretary of State withdraws*.)

Marquess of *Zetland*.

7329. Sir John Kerr, the question that I am in doubt about arises out of a ques-

tion which was put by Lord Lothian. I understand that the wife of a qualified voter for the Federal Legislature is automatically entitled to a vote for the Provincial Legislature provided she applies to be put on the Roll ? Is that so ?—(Sir *John Kerr*.) That is the intention of the White Paper, yes.

7330. What happened in the case where polyandry is in existence ? Can all the wives of a man apply to be put on the Register ?—No.

Sir *Hari Singh Gour*.] It is not a case of polyandry, it is a case of polygamy.

Marquess of *Zetland*.

7331. No, it is a case of polyandry ?—We propose that not more than one wife should be qualified in respect of her husband's vote.

7332. Now I want to pass just for a moment to the question of group election. I took the responsibility for placing the possibility of group election before the First Round Table Conference, where I thought it met with a considerable measure of support. I admit I did so largely as a result of the arguments in favour of it which you yourself put before me, and you quite understand, therefore, that when the master abandons the position, the position of the pupil is a rather difficult one. But the question I want to ask you is this : You were the Chairman, were you not, of a Committee which considered that question ?—Yes.

7333. Where there other Members of that Committee who had had long administrative experience in India ?—Yes, several.

7334. When you considered that question, were not all these possible objections to the system present to your minds when you came to your conclusion in favour of it ?—No, they were not. My mind was very much changed by my visit to India, when I found that the conditions of things in the villages had changed to a very considerable extent since I had done work in the villages myself, about 15 years or more ago. The conditions then were, I think, favourable to working the system on more or less patriarchal lines. I should have gone into a village in those days and got the people into rough and ready groups and said "Who is going to represent this

group, and who is going to represent that group", and they would have told me very quickly what was going to happen. But nowadays, what with political agitation in the villages, the fact that in a great many villages there is an agent of the body which is called Congress, I am not saying anything against them—they have got their agents in most of the villages in northern India, at any rate, and they have made an enormous difference in the village outlook. All those things have done away with that sort of friendly spirit which existed, and which to my mind in 1927 and 1928, I think it was, made it justifiable to put forward this group system proposal. Another point, of course, was the very unexpected strong opposition with which the group system proposal met both from non-official gentlemen and from officials, both European and Indian, particularly Indian officials whom I trusted very greatly, whose opinion I would take in a matter of this kind before that of most European officers, and they were, I think, almost unanimously against this group idea of the Royal Empire Society.

7335. Of course, what you have told me naturally will have great influence upon my mind. I am now a little inclined to change my own mind on that question after hearing what you have said. Then just to return to the franchise for the Central Legislature once more for a moment, I do not want to go over the whole ground, because it was very fully covered by Sir Austen Chamberlain and others, but I thought I understood you to say in answer to a question, that at the present time very little interest is taken in the elections for the Central Legislature. Was I correct?—Comparatively little.

7336. Does not that suggest to your mind that the present system is, therefore, not a very suitable one, that it is somewhat artificial?—No, Sir. I think it is that the subjects that are discussed in the Central Legislature are not such as appeal very much to the ordinary provincial voter. The one exception is that of tariffs. The rural voter is beginning to find now that the imposition of tariffs and the grant of bounties, and so on, is making a considerable difference to him in regard to some of the necessities of life. The question of build-

ing iron bridges, for instance, is a very important one in Assam, and the District Boards in Assam had to curtail their bridge-building programme because of the serious rise in the price of iron. Now 15 years ago, there was not a man, I should think, in Assam who knew what a tariff was or understood it in the very least. Now, it is very common knowledge in the villages what tariffs are, and what the effects of tariffs are. In that way, I anticipate that the interest in the affairs of the Central Legislature will grow as the Provincial people begin to see how it affects them in their daily life, but at present the effect is not very large and is confined to a few subjects, like tariffs.

7337. Just one or two questions about the size of these constituencies; I merely want to verify my own figures; I am not sure that I am quite correct. According to the proposals of the White Paper, there will be, I think, in Madras eight Muslim constituencies for the Federal Legislature?—Yes.

7338. Will those eight constituencies cover the whole of the Madras Presidency?—I think so, yes. Of course, the constituencies have not yet been delimited in any way; I do not think anybody has considered that really, but they will undoubtedly cover the whole Presidency unless in any district there were very few Muhammadans.

7339. If that is so, as far as I can make out, the average size of a Muslim constituency in Madras would be very nearly 18,000 square miles?—17,784.

Sir Joseph Nall.] Is that the average?

Marquess of Zetland.

7340. That is the average size?—Yes.

7341. Of course, some might be even larger than that?—Yes.

7342. But the average size will be very nearly 18,000 square miles?—Yes.

Marquess of Zetland.] Now turn to the Punjab.

Mr. Zafulla Khan.

7343. If Lord Zetland will excuse the interruption, could Sir John inform the Committee how many general constituencies there are at present in Madras?



It is smaller than eight, is it not?—Yes, smaller than eight.

7344. And do they not cover the whole of the Madras Presidency at present?—Yes, I presume so.

*Marquess of Zetland.*

7345. Might we turn to the Punjab for a moment? I understand there are to be six general constituencies and also six constituencies for the Sikhs?—Yes; that is page 90 of the White Paper.

7346. In the case of the general constituencies, surely, they will be spread over the British part of the Punjab, but I imagine the same would apply to the Sikh constituencies?—Yes. Sir Malcolm Hailey says they will be.

7347. What will be the average size of those constituencies?—(Sir *Malcolm Hailey.*) We can give you the average size of the general constituencies and of the Muslim constituencies; I do not think we have worked out for the moment the average size of the Sikh constituencies. It would not take long to do it. (Sir *John Kerr.*) 16,000 square miles.

*Sir Austen Chamberlain.*

7348. May I interpose a question? I am so puzzled about this. Would Sir Malcolm explain if the six Sikh and the so many general constituencies are to be spread over the whole of the Punjab? Would the whole Punjab be divided into six districts for the Sikhs, and in the same way, into a proportionate number of districts for the other members, or will there be special geographical constituencies returning the Sikh representatives, as was explained to us in the case of the Madras Depressed Classes?—(Sir *Malcolm Hailey.*) No, Sir; the system is at present, and it will no doubt be followed in the future, that for these major communities the electorate extends over the whole Province, divided, of course, into constituencies. It is only proposed in the case of some of the smaller communities, that we might on occasion for the sake of convenience take special constituencies, such, for instance, as might be done in the case of the Anglo-Indians, or Indian Christians, but for the major communities and for the general constituencies, they would extend over the whole Province

divided into constituencies. If you take the Punjab, to which you were referring, there would be three of these major communities, and the Muslims would have 14 constituencies extending over the whole Province; the Sikhs would have six constituencies extending over the whole Province, though I may say that there are districts in the Punjab where there are so few Sikhs that the numbers in those districts would not make any difference to the constituency. Then the general constituencies would also extend over the whole Province, and in the case of the Punjab, they would only be six. That is to say, there are 28 districts in the Punjab, and you would group them roughly together for the purposes of convenience of voting. You might take it, very roughly speaking, that there would be two districts for each Muslim constituency. It would not come out quite to four districts for each seat, and for each general constituency, but it would come, roughly, on an average, to about four districts—between four and five. The areas given by that, would mean that each Muslim constituency in the Punjab would comprise 7,000 square miles with an average total population of 953,000 and a voting population of 27,000. Each general constituency would comprise 16,500 square miles with an average total population of 1,100,000 and a voting strength of 32,000. I am, of course, giving averages only, as we have not yet made up the constituencies. I could give you similar figures for any other Province.

7349. And each Sikh constituency in the Punjab?—Each Sikh constituency in the Punjab would be in area 16,500 square miles.

*Marquess of Salisbury.*

7350. These areas will not be co-terminous in any way. Will they all be differently delimited?—Yes, that is done at present. It is made up in different blocks of districts, if I may express it in that way. Different blocks of districts are made up into one constituency for purposes of convenience; that is done at present.

*Sir Tej Bahadur Sapru.*

7351. But they are generally neighbouring districts?—They are neighbouring districts.

Marquess of Zetland.] The effect of your replies to my questions is that there will be a very large number of constituencies which will be at least from 16,000 to 17,000 square miles in area. Have you realised that an area of that extent is rather more than twice the size of Wales and Monmouth, and do you realise that Wales and Monmouth send 35 members to the House of Commons in this country?

Mr. Morgan Jones.] Too few.

Marquess of Zetland.

7352. Do you still really think that constituencies of that immense geographical area are a practical proposition if representative Government is to be real?—(Sir John Kerr.) As the Secretary of State said, what is the alternative?

7353. The alternative is the alternative proposed by the Simon Commission, which is set out in the Second Report of the Simon Commission. Might I just read only a few lines from the Report? On page 116 of the Second Volume of the Report of the Simon Commission, you will find these words: "Representative institutions were devised as a means of getting over the difficulty created by the expanding size of States, and it appears to us to be in strict accordance both with the theory of representation and with the requirements of common sense to say that, when the total area to be provided for is so huge that direct election would involve either impossibly large constituencies, or an impossibly numerous Assembly, the solution is to be found through 'Election by the Elected'—which is all that indirect election means." In other words, election by members of the Provincial Legislatures. That is the alternative.

Lord Rankeillour.

7354. One or two questions, Sir John Kerr, on detail rather. Who at present prepares the register corresponding to the overseers in this country in the first instance?—Generally, an officer who is called a Deputy Magistrate.

7355. When the register is prepared, is it marked in some way to show to which communities the various voters belong?—I think there would be a separate part of the register kept for Hindus and a

separate part of the register kept for Muhammadans.

Mr. Zafrulla Khan.] There are separate registers altogether.

Lord Rankeillour.

7356. At present is there any distinctive mark for the Depressed Classes, or a separate register for them?—(Sir Malcolm Hailey.) Not at present.

7357. But there will have to be in the future?—Yes.

7358. Before the Sub-Committee yesterday on which I was sitting it was given in evidence that there are different views as to whom the Depressed Classes are; where they begin and where they end. Would that make a practical difficulty?—(Sir John Kerr.) That has been decided, I think, in the White Paper. (Sir Malcolm Hailey.) It is now scheduled.

7359. I have seen the Schedule; but would that Schedule be generally accepted?—(Sir John Kerr.) Yes.

7360. The registration officers would have to follow that Schedule?—Yes.

7361. And they would naturally know to which caste he belonged; there would be no difficulty about that?—No difficulty at all.

7362. Then another point I want to ask is this: Is it proposed to have the elections for the general seats and the communal seats on the same day and in the same polling booths?—As a rule they are held on two different days.

7363. They would have to be held on two different days?—They are, as a matter of convenience, already held on two different days in nearly all Provinces.

7364. Otherwise the strain on the presiding officer would be heavy?—Not only that, but it is just as well to keep the communities apart at election times.

7365. With regard to the special constituencies, you would have to take the word of the officials in some cases; for instance, in the case of the Chamber of Commerce, that the list properly represented the members; you could not check that, could you?—You are talking now about the lists of the Chambers of Commerce?

7366. I gave that as an instance, but there might, possibly, be other instances. It really arose out of something emanating from the Sub-Committee. It seemed to me that the membership fluctuated; that you might become a member very easily, and a member might go off at short notice, and so on. You would have to take the word of the officials in a case like that, that it was a proper list of their members?—Yes. In the case of the Chambers of Commerce there is always a printed and published list.

7367. There would be no revision of that list?—It would be revised every year.

7368. There would be no other authority to check it?—No.

7369. I think it was given in evidence by the Police witnesses that the first elections were likely to be extremely difficult from the point of view of order. Do you agree with that? Do you think they will be difficult?—I think in some places very likely they will be so.

7370. That is an additional reason, I think you have just said, for having the communities voting on different days?—I quite agree.

[Major Cadogan.] The questions I desire to put are questions of policy, my Lord Chairman, so I will reserve them.

*Sir Reginald Craddock.*

7371. My Lord Chairman, I had one or two questions to ask the Secretary of State, which I will reserve, but I have a few questions to ask Sir John Kerr. In Bengal, Sir John Kerr, you have not a regular Land Record staff, have you?—No: not in the same sense as in other Provinces; but we have now completed the Record of Rights for the whole Province.

7372. But that is never kept up-to-date?—No; it is not kept up-to-date; but it is very useful for the purpose of reference on occasion of this kind.

7373. But it does not give you the names and holdings, and everything which is changed, so you have to have an independent agency?—In Bengal it is proposed to make the *chaukidari* tax the basis of the franchise.

7374. And you have got a special register for that?—We have got a special staff for it.

7375. Are you dependent upon the Zamindars for information?—No. The *chaukidari* tax is a tax that is put on by the village *punchayets* under the supervision of the sub-divisional authorities.

7376. Have you then no test of rent at all in Bengal?—Apart from the Record of Rights, there is none.

7377. But a part of the franchise is based, is it not, on the rent that a man pays?—Yes, at present; we have got road cess returns of course for them.

7378. The information about the rents is given by the Zamindars?—Yes.

7379. So that you are at a disadvantage as compared with those Provinces where the records are maintained annually?—Yes; but it is not proposed to make the rents the basis in the future. The *chaukidari* tax is going to be the basis.

7380. I say it will take the place of the rent qualification?—The *chaukidari* tax will, yes.

7381. Then as regards the Police, the idea I think was that about 1,000 votes could be recorded in a day at one polling station?—Not exactly that. It is 1,000 votes by one pair of clerks, and you would have three or four pairs of clerks at each polling station as a rule.

7382. Then you would want a good many police at each polling station?—Yes.

7383. How many did you agree there should be? Was it about five?—We have got an estimate of that in the Report. The U. P. estimated that the Police could deal with 25,000,000 electors, voting on one day.

7384. That would take up a very large proportion, of course?—Yes; but paragraph 27, on page 15, of the Franchise Committee Report discloses the information that we obtained in the U. P. "As a rule, one subordinate officer and four constables are necessary for each polling station."

7385. It was put to me at one time by some critic of this Report that with 36,000,000 votes to be recorded and 1,000 for each polling station, it would require

36,000 polling stations. If you multiply that by five, that would be 180,000, which would take up the entire Police Force of the country. But I gather that your calculations are based on a considerable modification of the numbers you have calculated for the U. P.?—Yes. We went into the question, and got these abstract figures, and then we went into the question of the actual Police Force available, and we came to the conclusion that the Police could be distributed in such a way as to provide the necessary protection to the polling stations.

7386. Still, you said that 25,000,000 could be dealt with in what time?—In one day.

7387. That would be 1,000 at each polling station?—Yes, that would be 25,000 polling stations in that case.

*Mr. Butler.*

7388. Is it not true to say that if you increase the number of clerks you can increase the number to each polling station above the 1,000?—That is what would happen in actual practice, but, as a matter of mathematical theory, if you take 1,000 registered electors per polling station per day, then the police force of the country is sufficient to deal with 25,000,000 electors as a maximum per day. In many places, of course, you would have much more than the 1,000 electors.

*Sir Reginald Craddock.*

7389. You could not for that purpose reduce the number of polling stations without making the distance to be travelled rather great. Supposing you reduce the number of polling stations and added more clerks with the view of economising the number of police required, you would be pulled up very often by requiring the distance to the polling station to be greater?—In sparsely populated areas you would not even get 1,000 a day, but you would have to have the police there all the same. This is the average for the whole of India.

7390. I was putting to you that an election for a province will take up a great number of police?—Yes.

7391. In your experience of elections so far, can you tell me whether there

is any serious risk of the Midnapore experience being repeated, in which, you may remember perhaps, that Midnapore returned an illiterate sweeper as their member?—So did Chittagong, and so did Lahore, I believe.

*Sir Reginald Craddock.* Is that likely to be repeated at all?

*Mr. Zafrulla Khan.* What is the point of the question?

*Sir Reginald Craddock.* I am asking Sir John Kerr whether he thinks that the kind of thing which brought about the election of an illiterate sweeper for Midnapore is likely to recur again under the new constituencies?

*Mr. Zafrulla Khan.* It is bound to recur where the depressed classes come in.

*Sir Reginald Craddock.* I do not object to the sweeper, but the way in which he was returned.

*Mr. Zafrulla Khan.*

7392. What was the way?—I do not remember the Midnapore man, but the Chittagong man was a very intelligent one.

*Sir Reginald Craddock.* He was returned by the fact that two candidates were put up, that is my information. One was a cobbler and one was a sweeper, and I do not think many voters wanted to vote for these candidates, and so, at the last moment, the cobbler was induced to resign, and the sweeper was declared elected without anybody having had to vote for the sweeper.

*Mr. Zafrulla Khan.* What is the objection? I still cannot follow.

*Mr. Rangaswami Iyenger.* I dare say there are many cobblers in this country.

*Sir Tej Bahadur Sapru.*

7393. Is not that the ultimate aim of democracy?—It is a question of policy for the Secretary of State.

*Miss Pickford.*

7394. Is it not the case that large as the constituencies are under the White Paper Proposals they will be smaller both for the Provincial Councils and for the Federal Assembly than they are under the existing Constitution?—Yes.

7395. Because the Federal Assembly are to have more seats, and the Provincial Councils will also have more ?—Yes.

7396. Therefore it would be fair to say that the difficulties which exist to-day will be less and not greater under the White Paper proposals ?—To some extent, yes. In the Provincial Councils the reduction will be very marked. In the Central Legislature the constituencies will still be very large.

7397. Arising out of the question that was asked by Major Attlee that it would be impossible to enlarge the franchise for the Federal Assembly because of the size of the constituencies, would it be fair to say that the difficulties are more geographical, and owing to the difficulty of communications, and it would be no more difficult for a candidate to get in touch with 100 electors in a village than with 10. By increasing the number of electors within a large constituency you do not really increase the difficulties of the candidate ?—If you increase the number of electors ten-fold, I imagine that it would make a considerable difference, but in a constituency of 15,000 square miles it would not matter very much whether your electorate was 25,000 or 45,000 as far as contact was concerned.

7398. If you have to go to a number of villages it does not make very much difference whether you have to try to get in touch with 10, 20 or 30 voters ?—No, I should think not.

7399. May I assume from the answer that the Secretary of State gave about the literacy qualification for women, that the proposal made by the Franchise Committee to enfranchise all literate women, has not been adopted, not for administrative difficulties, but because of the objection to a differential qualification ?—I think the Secretary of State had better answer that question. I am not familiar with the recent discussions on the subject.

Miss Pickford.] I have another question arising out of that. I had better reserve that. Could Sir John Kerr tell the Committee from his experience, is it the fact that strict purdah is not very largely observed in the villages. It is more a custom in the towns.

Mr. Zafulla Khan.] I think the Begum Shah can answer that better. That is correct.

Miss Pickford.

7400. It was an administrative argument that I wanted to bring out ?—It is very hard to say. I think in an ordinary village, if an Englishman comes in the instinct of the women is to hide their faces and shuffle away in corners, and so forth, but what the conditions are actually when they are left to themselves I really should not like to say, but ceremonial purdah, as you might call it, is more observed in towns and villages where there are well-to-do people than in the ordinary rustic village where there is nobody very much above the cultivating class.

7401. The question I wanted to lead up to was this : Do you think that a large number of women would go veiled to the polling booths in the country districts ?—Yes ; I think they would hide their faces from the polling officers.

7402. But they would be prepared to remove the veil if there was a woman clerk in the polling station ?—I should think so, certainly ; if there was only a woman clerk.

7403. But if there was a separate compartment with a woman clerk then that administrative difficulty could be overcome ?—Yes, I think so.

7404. And that in the towns would you agree that the evidence given before the Franchise Committee showed that it would be possible to provide separate polling stations for women in the large towns ?—Yes, I think the evidence showed that.

7405. Therefore, that administrative difficulty could be got over in the large towns ?—Yes, in the large towns.

Mr. Morgan Jones.

7406. Would Miss Pickford allow me to ask whether this difficulty was present at all in Ceylon and, if so, has it been overcome ?—In Ceylon they have a much larger staff of women available to assist at the polls than there is in India and they get over the difficulty in that way.

Sir Tej Bahadur Sapru.] There is practically no purdah in Ceylon among the Hindus.

Chairman.

7407. Is purdah an institution in Ceylon to any great extent ?—Only

among the Muhammadans I think in Ceylon. I am not very familiar with it.

Mr. Mr. R. Jayaker.] The same is the case in India. There are many districts where there is no purdah at all.

Sir Tej Bahadur Sapru.] Bombay and Madras.

Begum Shah Nawaz.

7408. Would Sir John tell us what would be the percentage of purdah among the women of India? How many women are in purdah? Have you ever considered that question?—It differs very much in different Provinces, and I should not like to give a mathematical answer to questions of that kind.

Begum Shah Nawaz.] There is very little purdah among the Hindu community; purdah is more or less confined to the upper classes amongst the Muslims, is it not, and mostly to the upper classes among the Sikh zamindars? There are 50 million Muslims in the whole of India, 40 million adults; there are more men than women. The number of women would be roughly 17 million. Out of that, 90 per cent. happens to be agricultural population and most of the women who live in these villages go and work in the fields with their own men, out of those 17 million. Therefore, out of 165,000,000 women there could not be more than 12,000,000 or 13,000,000 women in purdah.

*(The Witnesses are directed to withdraw.)*

Ordered, That this Committee be adjourned to 10-30 a.m. to-morrow.

21st July 1933.

Present :

The MARQUESS of LINLITHGOW in the Chair.

Lord Archbishop of Canterbury.  
Marquess of Salisbury.  
Marquess of Zetland.  
Marquess of Reading.  
Earl Peel.  
Lord Ker (Marquess of Lothian).  
Lord Hardinge of Penshurst.  
Lord Irwin.  
Lord Snell.  
Lord Rankeillour.  
Lord Hutehison of Montrose.  
Major Attlee.

Mr. Butler.  
Major Cadogan.  
Sir Austen Chamberlain.  
Mr. Cocks.  
Sir Reginald Craddock.  
Mr. Davidson.  
Mr. Isaac Foot.  
Sir Samuel Hoare.  
Mr. Morgan Jones.  
Lord Eustace Percy.  
Miss Pickford.  
Sir John Wardlaw-Milne.

The following Indian Delegates were also present :—

INDIAN STATES REPRESENTATIVES.

Rao Bahadur Sir Krishnama Chari.  
Nawab Sir Liaquat Hayat-Khan.  
Sir Akbar Hydari.\*  
Sir Mirza M. Ismail.

Sir Manubhai N. Mehta.  
Sir P. Pattani.  
Mr. Y. Thombare.

## BRITISH INDIAN REPRESENTATIVES.

Sir C. P. Ramaswami Aiyar.  
 Dr. B. R. Ambedkar.  
 Sir Hubert Carr.  
 Mr. A. H. Ghuznavi.  
 Lt.-Col. Sir H. Gidney.  
 Sir Hari Singh Gour.  
 Mr. Rangaswami Iyenger.  
 Mr. M. R. Jayaker.  
 Mr. H. M. Joshi.  
 Begum Shah Nawaz.

Sir A. P. Patro.  
 Sir Abdur Rahim.  
 Sir Tej Bahadur Sapru.  
 Sir Phiroze Sethna.  
 Dr. Shafa'at Ahmad Khan.  
 Sardar Buta Singh.  
 Sir N. N. Sircar.  
 Sir Purshotamdas Thakurdas.  
 Mr. Zafrulla Khan.

The Right Hon. Sir SAMUEL HOARE, Bt. G.B.E., C.M.G., M.P., Sir MALCOLM HAILEY, G.C.S.I., G.C.I.E., Sir INDLATER STEWART, K.C.B., K.C.I.E., C.S.I., and Sir JOHN HENRY KERR, K.C.S.I., K.C.I.E., are further examined.

Marquess of Lothian.

7409. I have only one question to ask you, Secretary of State, as you left in the middle of my questions. It is on the question of the reason why you propose that the wives should only have the vote on application to be put on the roll. As I understand it, it is not the technical difficulty of placing the names on the roll, so far as numbers are concerned, because the husbands are already on the roll, and it is clearly easy, other things being equal, to put the wives on?—(Sir Samuel Hoare.) No, I would not altogether agree with that deduction. We are informed that, at any rate in certain Provinces, it now creates great difficulty; husbands will resent particulars being asked about their wives.

7410. The real objection is that certain husbands will object to having their wives put on?—That is one of two objections, the other being the numbers.

7411. You provide for 5,000,000 women voters, and, if all the wives are put on, it might raise it to 6,000,000. Is the difference between 5,000,000 and 6,000,000 a decisive administrative objection?—The general view of the Provincial Governments is that the machine will be severely strained at the first election with the full numbers suggested by Lord Lothian's Committee. We have, therefore, been impressed by the proposals that have been made that would leave the scheme intact, but would enable less pressure to be put upon it for the first election or two.

7412. May I just ask one other question: Do you think it would be possible

for you to circulate to this Committee in the Autumn a statement of the area, population, and the number of constituencies in Canada and Australia for the purposes of comparison, because my investigations lead me to the conclusion that the average size of the Canadian constituencies is 9,000 square miles, and in Australia is 30 square miles for the Lower House, and 60,000 square miles for the Upper House. We had better get the actual figures clearly before us in the Autumn. Could you do that?—I suggest, my Lord Chairman, that the proper course would be for you, if you would, to ask the Dominions Office to send particulars of that kind.

*Chairman.*] Very well.

Sir Tej Bahadur Sapru.

7413. May I just put one question to clear up a point made by Lord Lothian? What is the nature of the objection which has been suggested to you about husbands, about giving details about their wives in India? Has it been suggested to you that they will object to giving the names?—It is suggested that in certain cases they will object to giving any particulars at all.

7414. I am very doubtful as to whether that is so, or not?—Perhaps, Sir Malcolm Hailey will put the case.

7415. May I put before you the Indian point of view? So far as, say, the Orthodox Hindus among the villages are concerned, there is a sort of prejudice in mentioning the name of the wife, but that prejudice does not obtain among the Muhammadans. If a husband is unwilling to give the name of

the wife, there are other members of the family who can give it. The real objection, to my mind, is that the women of India really have serious objection to giving information to any official, and I suggest to you that the position being that women must apply it is really going to result in a very substantial reduction in the representation of women?—We have had cases to the contrary in some number brought to our attention, cases of male electors refusing to give the names of their wives, and again cases in which it has been found particularly difficult to persuade either the women or their male relatives to give their names to the persons preparing the rolls. Perhaps Sir Malcolm, from his experience, would add a word to my answer.

Mr. *Zafrulla Khan*.] I venture to submit that in the North-West Frontier Province it would not be free from danger for an officer to go and make such inquiries.

Begum *Shah Nawaz*.] May I ask Sir Malcolm Hailey a question? Is it the fact that except in the Punjab and the North-West Frontier Province, Muslim women hold property in almost all the other Provinces, and their names are already on the registers?

Sir *Hari Singh Gour*.

7416. May I add to what Begum Shah Nawaz has said that for a municipal franchise where there is adult franchise, as in many urban municipalities, the names of women are already borne on the electoral roll?—(Sir *Malcolm Hailey*.) What I should say to the Committee is the result of our experiences in the United Provinces in making a test electoral roll on the new franchise in certain selected areas. They were so selected as to be more or less illustrative of what we might expect to find when we came to prepare the full electoral roll afterwards. We found that in the towns there was no great difficulty, and that particularly was the case among the working-classes and such classes as the Scheduled Classes. In the villages results differed, one very enthusiastic officer going personally (he was an Indian officer), did manage to get the names of a number of women on his roll, but there were other cases in which the Agents employed, men of the

Revenue Accountant type, village Accountant type, were driven out of the village, and I got many complaints, that if this course of things was to be pursued there would be very serious danger to them. So that there was positive evidence of the real difficulty in drawing up a roll, at all events, in the local areas. I am quite convinced of the truth of Mr. *Zafrulla Khan*'s observation about the North-West Frontier Province.

Mr. *Zafrulla Khan*.

7417. Quite?—There are certain parts of the North West parts of the Punjab where I think the same conditions would apply as in the North West Frontier Province. They are, of course, almost purely Muhammadans. There would be very little difficulty, I think, in the case of the Sikh population, because the women there have been voting in what we know as the Gurdwara Elections. I have my own experience, of course, and I wish purely to speak of the results of that experience which is confined to the Punjab and the United Provinces. I am sure there would be, for the first election, at all events, until people know how very harmless was the nature of our inquiries, very considerable difficulty in many of our local constituencies. That difficulty would apply to all the fairly well placed agricultural classes; it would not apply in the same sense to the Scheduled Castes; but I want to make, if I may, one general observation to the Committee. The preparation of a roll of this extent can only be carried through as part of our ordinary official procedure. That is to say, the vast bulk of our electors will be from the rural areas. Now in the greater part of India we have a Land Registration system, which gives you the names of all persons owning or cultivating land. All that we do is to get our Revenue Agency to work and they make an extract from those Registers, which gives you a Roll that is practically complete in itself. No inquiries are really necessary for that purpose; it can be prepared by the village Accountant Staff under the supervision of what we know as the Tehsildar with very fair completeness without any inquiry at all, being checked in the village, but that is in itself a comparatively simple operation, and it is owing to the existence of these



records that we are enabled to prepare what is in effect a very accurate Roll, without any great disturbance of our ordinary official work, and at no very great cost. If we are to make an elaborate system of inquiries in the villages, then the burden of preparing the Roll will be immensely increased. It will occupy the time of men who are really required in urgent work connected with the village records and the collection of Land Revenue, and of their supervising staff. That is one reason why the Local Governments have found so much objection in the proposal to add a very large number of women whose names can only be ascertained as a result of personal inquiry, in the first instance. I think we, many of us, contemplated that when matters settled down and people understood the meaning of the vote, the difficulty might not occur afterwards; and I think I am right in saying that our objections applied really to the initial procedure of the First Roll.

Dr. B. R. Ambedkar.

7418. Do I understand that he would not require any application at the Second Election?—As the Secretary of State has said, I would leave that largely to circumstances. If it were found that the Second Roll could be undertaken without any very great difficulty, I think you may be quite sure that the Local Governments would do their very best to make the change and prepare a Roll of women without the Application procedure.

Sir C. P. Ramaswami Aiyar.] My Lord Chairman, I can speak with some little experience of the election because I was in charge of a legislative election for the Legislative Chamber in Madras. I may say that speaking for the South of India, while there is no Purdah system in force to the same extent as there is in the North, and while, moreover, it must be recognised that there is some prejudice on the part of the husband to give the name of the wife, and on the part of the wife to give the name of the husband, nevertheless, there will be very little difficulty in compiling a Register, so far as that part of the country is concerned. At the same time, there will be considerable difficulty in exacting applications from women; they

would not normally apply. I would, therefore, suggest for the consideration of the Secretary of State and the authorities that there should be these two systems applied side by side: that where it is possible either from Revenue Registers or otherwise to get the names of the women or where it is possible by inquiries to get those names without any trouble, then that method should be resorted to side by side with the method of application. To resort suddenly to application or to insist upon it, as a *sine qua non* of entry on the Register, would lead to difficulties even in a Province like Madras where there is no seclusion of the Purdah system in force.

Sir Manubhai N. Mehta.

7419. May I inquire if these objections are not present, and also overcome at the time of the census enumeration?—(Sir Samuel Hoare.) I think, my Lord Chairman, obviously, we ought to take into account such a suggestion as has been made by Sir C. P. Ramaswami Aiyar. At the same time, the Committee and the Delegates should know that the view that he has just expressed is not, so far as I can remember, the view that has been expressed by the Government of Madras. The Government of Madras have very definitely taken the view that for the First Election or two, the women's vote should be upon application.

Mr. M. R. Jayaker.

7420. Can the Secretary of State say what is the view of the Bombay Government and the Central Provinces Government in this behalf?—The same; I think also on application.

Sir Reginald Craddock.

7421. Would the application from the husband that his wife's name might be recorded, suffice?—It would be the application of the voter.

7422. That is to say, of the wife?—Of the wife, yes.

Mr. M. R. Jayaker.] But would you not substitute the husband's application on his wife's behalf?—That is a point we ought to consider.

7423. Has this application to be by letter or in person?—we have not formed

any definite view about it. We would make it as easy as possible ; we should certainly do that.

7424. It will ease the situation, to some extent, if you allow the husband to apply on behalf of his wife. I am only making a suggestion for your consideration ?—I think that is a suggestion which we ought certainly to take into serious account.

*Sir Hari Singh Gour.*

7425. In view of the discussion which has proceeded upon the subject, would the Secretary of State be pleased to give an undertaking to the Committee that he will re-examine the whole question, and see if a *via media* cannot be found with the view to bringing upon the Register as many women as can be brought without detriment to the objection which has been raised, and in Provinces where such objection is not of primary importance, a serious effort should be made to bring women on the Electoral Roll ?—I should think that not only I, but all Members of the Committee, would wish to keep an open mind upon the suggestions that have been made this morning ; some of them may prove to be very valuable. I have put before the Committee the reasons that have prompted us to make the proposals in the White Paper. I still think they are the best, but in a matter of this kind, obviously, one must take into account suggestions that are made, as they have been made this morning.

*Sir Tej Bahadur Sapru.*] May I make a suggestion to Sir Samuel Hoare and the Committee, that perhaps it would be best to leave a latitude to the Local Government to do as occasion requires or as the situation in the Province requires. What I am suggesting is, you need not have a hard and fast rule insisting upon application everywhere and under all circumstances. I should leave it to the Governor of the Province to decide, according to the situation, and according to the need of his own Province.

*Begum Shah Nawaz.*] May I be permitted to say that we strongly object to this ?—We want the British Government to give their decision upon this question.

*Marquess of Salisbury.*

7426. I am very diffident to say anything upon the matter of this

kind, but I hope the Secretary of State remembers that the application of nearly all these women will have to be personally, because the great body of them are illiterate ; so, if the application is to be by the woman herself, she will have to attend to apply ?—Yes, and it was keeping that kind of fact in mind that made me take particular note of what Mr. Jayaker said as to the possibility of the husband applying.

*Chairman.*] I suggest that the Committee might wish to pass to other matters now. It seems to me that the Secretary of State has in mind, and I am sure the whole Committee will bear it in mind when the time comes.

*Lord Rankeillour.*

7427. Secretary of State, does it not follow from what has just passed, that if you once depart from the property qualification the task of compiling the roll, whether for men or for women, will be very much more difficult ?—Yes.

7428. And the estimates of cost have been based on the property qualification being taken ?—No ; the estimates of cost have been based upon the whole scheme.

7429. But under the assumption that the roll was compiled on the present basis of the existing Land Registers ?—Taking into account the other qualifications as well.

*Major Cudogan.*

7430. My Lord Chairman, the Secretary of State has been so patient that I hesitate to return to a subject on which he has already answered so many questions, but I want to ask one question on the comparative merits of direct and indirect election. You have admitted that there are most formidable objections to both, but you will also admit that responsibility is the very essence of your scheme at the Centre (*a sine qua non*) and responsibility means not only responsibility of the Executive to the Legislature, but the responsibility of a Member to his constituents. In view of the remarkable figures that Sir Malcolm Hailey read out, I think in response to Lord Zetland's request, on the size of the constituencies, might I draw your attention to a passage which has not yet been

quoted in the Simon Commission Report on page 117 of Volume II—"Under the plan which we propose the representative at the Centre will know that his actions will be subject to the criticism of a body of provincial legislators and the result will, we believe, be the creation of an enhanced sense of responsibility in the member". Do you agree with that being one of the advantages of indirect election?—Yes, I should certainly say it was one of the advantages of indirect election.

7431. The other question I want to ask (I hope I shall not be encroaching upon a question which is taboo) is that I would remind the Secretary of State that a feature of the Simon Commission proposal for indirect election upon which they laid very great stress and emphasis (I do not know if the Round Table Conference considered it) was the fact that we proposed the use by the Provincial Councils of proportional representation, and one of the advantages of this, it was pointed out, was that you would obviate the separate communal representation in the Assembly. Do not you think that can also be put into the balance in favour of indirect election?—So much do we think that that we are adopting proportional representation from the Councils as the method of representation in the Second Chamber.

*Sir Austen Chamberlain.*

7432. May I put one question to the Secretary of State on the same passage, the words immediately preceding those read by Major Cadogan? The Simon Commission say: "All the evidence goes to show that at present the actions of a member in the Assembly are not, and in the nature of things cannot be, subject to any real control on the part of his constituents." Do you see any reason to differ from that statement?—I do not think that I should feel competent either to accept it or reject it. I have found that a great many of our Indian colleagues take a different view. One has got to take the opinion into account of men who are actually sitting for some of these very large constituencies.

*Miss Pickford.*

7433. May I ask the Secretary of State one or two questions as to the women,

which have not been touched upon. May I assume from his answer to Lord Lothian yesterday that the reason why the literacy qualification for women recommended by the Franchise Committee has not been incorporated in the White Paper is objections to a differential qualification rather than administrative objections?—It is more than a single reason. First of all, we have found it difficult to defend an educational qualification that is different for the two sexes. A very formidable argument can be urged against differentiation upon grounds of theory, but, over and above that objection, there is the administrative objection. We did find that it was the view of the Provincial Governments that conditions very much varied. For instance, they might have educational particulars of a certain kind about women in one province, and they had not them in another, and so on, a number of other more detailed administrative difficulties that no doubt Sir John Kerr and Sir Malcolm Hailey could describe at greater length. It was, therefore, those two reasons that prompted us to make the proposed change in the Lothian recommendations.

7434. Would it be fair to assume that the administrative objections cannot be very great in view of the fact that Madras is willing to have a literacy qualification for both men and women, and that in Bombay and the Punjab a literacy qualification is recommended for the scheduled classes?—So far as I can remember off-hand Madras preferred a literacy qualification because they had particulars about literacy available, and they did not have so readily available particulars about other educational qualifications. So was it also in Bombay. Bombay, so far as I can remember, took the view that their available data was data connected with matriculation, and they found it difficult to apply other tests. I think those two examples show the difficulties of applying a qualification of this kind when in one province the educational particulars that you have got deal with literacy; in another province they deal with matriculation. (Sir John Kerr.) That is correct.

7435. I think it is the case, is it not, that the matriculation qualification will be kept as well for those who do not belong to the scheduled castes?—(Sir

*John Kerr.*) The difficulty about application is, I think, that it will throw a very serious obstacle in the way of the preparation of these electoral rolls. As Sir Malcolm Hailey has just said, the information about the men is available in the Registers, and you can get several hundred men's names into the roll in a day, but, if you are going to have these applications alleging literacy, and you are going to have objections saying that they are not properly authenticated, then you are going to have disputes and appeals, and things of that kind, it is going to delay the preparation of the initial roll very greatly, and what the Local Governments feel, I think, is that this would put an unbearable strain upon the administrative machine to have to go into those comparatively small questions regarding individuals at a time when their whole energies will be strained in getting the roll ready.

Sir A. P. Patro.

7436. May I ask a supplementary question? In Madras the qualification is: "Literacy (i.e., ability to read and write in any language) certified by village officers in certificates to be countersigned by the Tahsildars, or alternatively, the holding of the Elementary School Certificate issued by the headmaster of a school recognised by the Government." Similarly in Bombay. On page 105 of the White Paper it says: "Having passed the examination for the matriculation or the school leaving certificate, or an examination accepted by the Local Government as the equivalent thereof." In Bombay and the Central Provinces by setting up the standard of matriculation you keep out a large number of useful voters, and you give preference, or place a premium on urban voters and keep out the rural voters. On the other hand, in Bombay, you have what is known as the vernacular upper primary examination, and, similarly, in the Central Provinces, you have got upper primary examinations. Local Governments should not find any difficulty in recognising these two as a standard for women as it is so in Madras, where you have said that literacy certified by the village officers' certificate is quite sufficient, or, alternatively, the headmaster of a recognised school. I do not see, administratively or otherwise, any

difficulty in placing a similar standard of qualification in regard to women in Bombay Presidency and in the Central Provinces?—I would say in regard to that, Madras is admittedly the most advanced province in India in regard to all sorts of electoral arrangements. They have had this system of elections to local bodies in force for many years, and it is on that system that they propose to base the franchise for the Councils. They are therefore in a very much better position than any other province to make arrangements for the women, because they are already on the electoral roll for local bodies under the qualifications which have just been read out.

7437. May I suggest that there is a recognized standard of vernacular education such as is shown by the vernacular Upper Primary Examination in Bombay and the Central Provinces? Why not accept that as in Madras?—As far as I remember, Bombay said that their educational records were not such as could be readily applied to the preparation of an electoral roll. The educational records have not been prepared with that object in view. In future, for future generations of girls or women it will be a comparatively simple matter to adapt your educational registers and returns for electoral purposes, but in Provinces where that has not been done hitherto there will be very considerable difficulty in doing it for the first election.

7438. Would there be any difficulty in asking the Governments of Bombay and the Central Provinces to reconsider this question, because I have had information from the Ministers of Education in Bombay and the Central Provinces that there is a real standard of vernacular primary education available in all schools?—The question is whether the records are available in time to be used for the first election.

7439. I understand that the records are available both in the Directors' office as well as in the office of the Inspector of Schools?—(Sir Samuel Hoare.) We can only take the view of the Government of Bombay expressed to us after a long series of communications and questions.

7440. May I submit that this will help only to bring in the urban city voters,

and you will exclude all the rural population, the agricultural population, and labouring population coming in to the electoral rolls. Your rolls will hereafter be limited only to women in the cities and towns where there are educated people; but in the rural areas of these two Provinces you will not get any women coming into the roll?—(Sir *John Kerr*.) One of the arguments used by the Government of Bombay was that if the educational qualification was reduced below the matriculation standard it would increase the urban-rural disparity which is already serious in Bombay and which it has not been possible to rectify to the same extent as in other Provinces, because more women in the towns would conform to what has been called the Upper Primary standard than in the country. There are not schools in the villages with records to the same extent as there are in the towns.

Begum *Shah Nawaz*.

7441. If the qualification of literacy only were accepted, would not that solve the problem?—Apparently not in Bombay, because in Bombay the educational facilities in the towns are very much greater than they are in the villages.

Begum *Shah Nawaz*.] Is not it a fact that in most of these villages, whether in Muslim families or in Hindu families, the women learn to read from books in their own homes?

Sir *A. P. Patro*.

7442. Would it not be better to apply the literacy standard?—(Sir *Malcolm Hailey*.) I think I would rather take the word of the Begum Sahiba for that. I have seen something of the girls in the towns and villages, but I am not likely to be as good an authority on the subject as she is.

Begum *Shah Nawaz*.

7443. May I ask if the Franchise Committee did not take into consideration all these endless difficulties when they went out to India?—(Sir *John Kerr*.) We took them into consideration as far as we could, but it is the local Government who knows where the shoe pinches.

Sir *Hari Singh Gour*.

7444. Did they not tell you where the shoe pinches when you were making inquiries?—I think I am correct in saying we proposed a more liberal franchise in the case of women than any local government was prepared to accept when we were in India.

Begum *Shah Nawaz*.

7445. Are there any women in these local governments, or are there only men in the local governments?—(Sir *Malcolm Hailey*.) One of the weaknesses of our local government system is that it contains no ladies at present.

Miss *Pickford*.

7446. May I draw the attention of the Secretary of State to page 12 of the White Paper proposals, in which it is pointed out that the ratio of men to women voters will remain as at present in the neighbourhood of 2 men to one woman; and where it is stated that His Majesty's Government fully appreciate the importance of a large women's electorate for the Federal Assembly? May I take it from that that His Majesty's Government are still open to suggestions for increasing the women's franchise for the Federal Assembly?—(Sir *Samuel Hoare*.) I did not quite catch the end of the question.

7447. Does His Majesty's Government fully appreciate the importance of a large women's electorate for the Federal Assembly?—Yes.

7448. May we assume from that that His Majesty's Government and the Secretary of State are still open to practical suggestions for increasing the women's electorate?—I am nervous upon administrative grounds of an increase in the first election. I am most anxious that, supposing proposals of this kind are embodied in an Act, the first elections should work smoothly and I have to take into account the warnings that have come from I think every Provincial Government against straining the machine too severely at the first election.

7449. Would you agree that to leave the ratio at 20 to one is contrary to the terms of reference embodied in the Prime Minister's letter to the Franchise Committee, to pay special attention to

the women's vote and to diminish this grave disparity which now exists?—No, I do not think I would admit that. I would say, first of all, special attention has been given to this question, and I would say, secondly, that we must keep in mind the fact that under our proposals we are assuring nine special seats for women at the Federal Centre. That will go some way at any rate to lessen the disparity of the figures which Miss Pickford has just quoted, and I would add this further observation, too, to my answer: It must be remembered that, apart from these questions of percentages, we are increasing the women's vote for the Federal Centre I think almost tenfold.

*Begum Shah Nawaz.*

7450. What about the ratio—the proportion?—I said particularly, “apart from the percentage.”

7451. May I call the Secretary of State's attention to page 94, the last few lines of the third paragraph? What he has said in reply to Miss Pickford's questions: Does it mean that they are not going to consider further the question of lessening this disparity in the proportion of one to 20?—I am not quite sure what the Begum's question means. Obviously, neither with this question nor with any other in the White Paper has the last word been said. We are here to consider these questions just as we are here to consider every one of the proposals in the White Paper. This proposal does not differ in any way from the other proposals we have included in the White Paper.

7452. But almost the promise is given in these last few lines on page 94, that further consideration of the above arrangements may be necessary. It means that women in India understood from this that it was the intention of His Majesty's Government further to consider this question and try to lessen the disparity in proportion of 1 to 20?—Those are just the kind of questions we are considering this morning. I have given my views for the proposals in the White Paper, and I have been taking note of all these other suggestions that have been made in one direction or another during our discussion.

*Mr. M. R. Jayaker.*

7453. May I know, Sir Samuel Hoare, whether after the evidence of the Indian Women's Organisation, about which my Lord Chairman is not in a position to state anything, if the Committee have the benefit of hearing that evidence, you will reconsider the position of the Women's Vote once more in the light of the evidence the Indian women give, if they give evidence at all?—I really cannot differentiate this case from any other case. Here we are in a process of discussion about the White Paper proposals, and, obviously, it would not be true to say that our minds are rigidly closed against any suggestions. We are here to receive suggestions and to consider them.

*Miss Pickford.*

7454. Without, of course, calling in question the Communal Award, may I call the Secretary of State's attention to the distribution of seats for the women, both in the Provincial Councils and in the Federal Assembly. I note that Bengal, with a population of 50,000,000, has five seats reserved for women in the Provincial Council, and one in the Federal Assembly, and that Bombay, with a population, without Sind, of 18,000,000, has six seats in the Provincial Council and two in the Federal Assembly. May I ask on what principle that was suggested?—Miss Pickford is really raising the Government's communal decision. The communal question, of course, as she knows, does enter into the question of these women's seats very definitely.

*Begum Shah Nawaz.*

7455. Are we barred from the Communal question?—It is very difficult to say either yes or no to that question. I think I would say that you cannot leave the Communal question out of account. If you leave it out of account, you must invalidate your general communal decision in a Province by the kind of representation that was given to the women in the special seats.

*Miss Pickford.*

7456. That would hardly apply, would it, in the Federal Assembly, whereby Madras and Bombay have two women's seats and Bengal has one?—I can only

say with these special seats, we took an immense amount of trouble in balancing the various claims, and, putting one thing with another, we thought this was a fair plan.

Miss *Pickford*.] Then the smaller Provinces, Assam, North-West Frontier Province, Sind and Orissa, are left without any representation for the women at the Centre at all. Would it be possible to consider a scheme whereby the smaller Provinces could be represented at alternate elections rather than to deny them for ever any representation at the Centre.

Begum *Shah Nawaz*.

7457. And also the women of the two new Provinces, Orissa and Sind, must have their representations at the Centre ?—I can see considerable difficulty in the way of altering these figures, but, off-hand, I would say that I would take into account the suggestion Miss *Pickford* has made, and think it over.

Miss *Pickford*.] Thank you.

Marquess of *Zetland*.

7458. My Lord Chairman, may I just ask one question—it is only for information. I am not quite sure—would a woman be entitled to stand for a general constituency ?—Yes.

*Chairman*.] With the courtesy of Sir Akbar Hydari, whose turn it is now, I am going to ask Sir Nripendra Sircar to put some questions.

Sir *N. N. Sircar*.

7459. My Lord Chairman, I think the Secretary of State has been informed that I sent certain figures to the India Office to be checked, to find out whether my figures were right or wrong ? Is that not so ?—Yes ; we have had some figures sent to us by Sir Nripendra Sircar.

Sir *N. N. Sircar*.] I understand that some of the figures have been checked (I am making no grievance or complaint about it), and others have not been checked in the office.

Marquess of *Zetland*.] Could we be informed to what these figures refer ?

Sir *N. N. Sircar*.

7460. I am putting that in my question now ?—I am informed that figures have

been checked, so far as we have been able to do so.

7461. My question is this : In the arrangement for seats for the Provinces, coming to Bengal, we know there is no allocation for Hindus, as such, but they come under the word "general", which in Bengal practically means Hindus. Is that not so ?—Yes.

7462. Now using the word general in that sense, in the sense in which it is used in the White Paper, that, I understand, as meaning everyone, except Muslims, Indian Christians and Anglo-Indians and Europeans. Is this fact correct. The proportion of the total population of all ages is 54.9 for Muslims, and 44.8 for the general constituencies ?—Yes.

7463. If you come to adults, if you take ages over 20, is it correct that the proportion of Muslims to Hindus is 51.7 as against 48 ?—Yes.

7464. I do not know if your office has had time to check it, but in the census of 1931, I have got it here, Volume V, Part I, page 121, while the age groups are given in a summarised form, does it appear that between the ages of zero and 10, there is a predominance of Muslims over Hindus to the extent of 55 per cent., and there are 3,000,000 and a little more of Muhammadans between the ages of zero and 10. You have not checked that ?—No. We have not been able to check these figures in detail.

Mr. *Zafrulla Khan*.] I have not the slightest objection to any questions that Sir Nripendra Sircar wishes to ask the Secretary of State on these points, and to press them in whatever detail he desires, but I do hope that if there is a similar attempt on this side, subsequently, to meet those points and to raise those points, the Committee and yourself will not complain that undue time is being taken up over the consideration of these matters.

*Chairman*.] That is quite understood.

Sir *N. N. Sircar*.

7465. Now is it correct that the total number of seats for the Bengal Legislature is 250 (I am talking of the Lower House), and out of it 31 seats cannot be touched either by Hindus or by Muslims, 25 for Europeans, 4 Anglo-Indians and 2

for Indian Christians. Is that not so ?  
—Yes.

7466. And I think you will agree that 31 seats out of 250 are taken up by Europeans, Anglo-Indians and Indian Christians, who between themselves, the three together form less than  $\frac{1}{2}$  per cent. of the population and take up 31 seats. I am not complaining at all, but is it the fact ?—Put numerically, it is the fact, but Sir Nripendra Sircar has just admitted it is not principally the numerical fact that we have taken into account.

7467. No. I have made it perfectly clear that I am not complaining about it ; I only want to get the facts put in a very short form before the Committee. Is it the fact that if the 199 ordinary seats, those of the seats which are to be divided between the general and the Muslims, are divided according to the ratio of the adult population which I have quoted to you, that then the result would be 103 Muslims seats and 96 general seats ?—If they were divided in accordance with the adult population figure, did you say ?

7468. Yes ?—103 and 96 ; I think that is so.

7469. If they are divided according to the total population ratio, which your officers have agreed is 54.9 to 48, then there should be 109 Muslim seats and 90 general seats ?—Yes.

7470. What has been awarded is 119 plus such seats as they can get out of the 20 special seats. What has been awarded to the Muslims is 119 seats plus such seats as they can get out of the 20 special seats ?—Yes.

7471. May I draw your attention to the Volume which you have been kind enough to distribute to Members of the Committee and the Delegates, "Despatches from Provincial Governments in India containing proposals for Constitutional Reform." I am drawing your attention to page 59 of Command 3712 ?—What I am not quite clear about is, it is the opinions of the Provincial Governments, on what ?

7472. On the Statutory Commission. If you would be so good as to look further on page 59, I am putting it as shortly as possible, the European Members of the Bengal Government say this : "After careful consideration of rival schemes,

they have come to the conclusion that representation on the basis of population is the fairest method of distributing the seats in the general constituencies between the Muhammadans and non-Muhammadans, and they consider that any weightage which is to be given to the non-Muhammadans in respect of wealth, education or position, should be allowed for in the special and not in the general constituencies." If this opinion had been followed, what was considered to be fair by the European Members of the Bengal Government, then the 20 special seats would be left to take their own course, being liable to be captured by the Hindus, but the other 199 seats would be divided according to the population basis. I want to know, have you followed that principle in the communal decision ?—I am not going to argue about the communal decision at all. I have made my position quite clear in the Memorandum. We did not wish to make the decision ; it was forced upon us by all the communities in India ; we did it with great reluctance. We took into account, of course, the Report of the Statutory Commission ; we took into account every conceivable other kind of investigation and we had in every case the very full reports from the Provincial Governments.

7473. May I take up that point before the Committee ? Is it not the fact that you have been forced to make the decision because the parties could not agree in spite of their endeavours to settle the dispute ?—Yes.

7474. And is it not the fact that when from the Delhi Consultative Committee the telegram was sent to the Government to come to a decision in the Proceedings, it was made perfectly clear, particularly by the Muslim Members, that there is no question of arbitration, no question of award, and the matter will be open to challenge, if the decision went against any particular party. Was not that the position ?—I am not sure whether any community ever said they will accept the decision or not when it was given. What I am quite sure about is that the communities failed to agree amongst themselves, and they then made it clear that the Government must give a decision. That decision we have given.

7475. I quite agree there ; I will not pursue that point. There has been a



Government decision—that I realise—but would it be correct to say, that so far as this Committee is concerned, it is quite open to them to inquire whether an injustice has been done to a community in Bengal?—I could not in any way restrict the activities of the Committee. I shall take no part in those discussions at all, nor will any Member of the Government.

7476. Do I understand your position to be this: you were compelled to a decision. When I say you, Sir Samuel, I mean the British Government. The British Government was compelled to give a decision, because the parties could not agree, and in that decision they stated: "This is our final decision, so far as we are concerned. We cannot allow the Conferences to be held up, because you are fighting between yourselves?"—Yes.

7477. Having done that, you have carried out your undertaking and put that decision as part of the White Paper proposals?—Yes.

7478. When it has become a part of the White Paper proposals, these White Paper proposals, whether they are the result of complete agreement between parties or substantial agreement between parties, or because you had to come to some decision because they hopelessly failed to agree, for the purposes of this Committee and for the purposes of Parliament do they not stand on the same footing. They are proposals, every word of them being a proposal in the White Paper?—They are proposals that differ in this respect from the other proposals in the White Paper, namely, that upon those proposals the Government have said their last word.

7479. I quite appreciate that so far as the Government is concerned, this is the last word. They cannot say: "We are going back upon the decision." I am not looking at the Government point of view. I am looking at the point of view of a party who is applying for justice to the Joint Committee and to Parliament. This communal decision is part and parcel of the White Paper proposals, like others?—I have just drawn attention to the fact in which it differs from the other proposals.

7480. I cannot argue further with you, Sir Samuel Hoare. The difference

is so far as the Government is concerned. What is the difference, if you are pleased to answer it—if not, you will not, so far as the Joint Committee and Parliament are concerned, because in the one case you had to come to a decision because parties failed to agree, and, in another case, you came to a decision because parties substantially agreed?—I think that is essentially a question that the Committee must decide. My own view is that it does differ substantially from the other questions in the White Paper, first of all, because the Government has said its last word upon these proposals; secondly, my own view, for what it is worth, is that if we reopen it here, this Committee will never come to an end, and there will never be any Constitutional proposals for India at all.

7481. May I deal with that bogey, that this Committee will never come to an end? If I put up this proposition for you for your consideration perhaps you will change your answer. I am limiting myself to Bengal. So far as the Bengal proposals are concerned, as they are to be found on page 93 of the White Paper proposals, supposing the Committee is not asked to disturb any of the questions decided, for instance, what you say is the principal question, whether there is going to be a special electorate for certain communities: the number of seats given to Labour, the number of seats given to the Universities, to landholders, to Europeans, to Anglo-Indians, to Christians, and various other things which are decided. One party appeals to the Joint Committee in this way. It says: "Keep all of them. We do not want to disturb anything; but there is no reason why, while you are dividing the ordinary seats between the Hindus and Muhammadans, you would not spare five minutes of your time to work out the proper quotas?"—My own view is that if the Committee wishes to re-open this aspect of the problem they will re-open the whole of the communal question, and that is quite impossible in practice to re-open the questions on the lines suggested by Sir N. N. Sircar.

7482. Will you be pleased to state why it is impossible, if the other questions are not open, and if you do not go into the question of the number of

Labour seats that are wanted?—I am pretty sure—I do not know whether the Indian Delegates will support me in this view—if we said that the communal position was open for discussion we should either talk about nothing else for the rest of our deliberations here, or three out of four of the Indian Delegates would say that they could not go on discussing anything at all until the communal decision had been given once again.

7483. May I point out to Sir Samuel that in spite of that (I am not suggesting the whole of the communal award should be re-opened and that these matters should be discussed endlessly before the Committee and that their time should be taken up) as a matter of fact you are actually examining witnesses on these questions, are you not?—To some extent we are. My own view would have been that it would have been better not even to go to that extent, but there were certain distinguished Indian gentlemen over here, and I think there was a good deal to be said for letting them come and make their case, even though it is accepted anyhow by the Government that the communal decision is not, at any rate so far as they are concerned, open for discussion.

7484. I quite appreciate the Government position, as I have said more than once, but there would be no sense in inviting witnesses to come here for the purpose of agreeing if it has been settled already that this question is not to be gone into at all?—I am giving my view as the Secretary of State for India. What view the Committee take ultimately about it is for the Committee to decide. I will give the Committee what advice I can upon the subject, and my advice will be against re-opening the question; but it is for them to decide whether they will take that advice or not.

7485. I shall ask you one more question about the ratio, and I then come to another question. Having regard to the figures which you have been good enough to admit (I am not going to repeat the figures of percentages and so on over again) there is no doubt on those figures that one Community has got sixteen seats more than their pro-

portion of the population or any other consideration would justify?—I should not admit that conclusion at all.

7486. I will not argue with you, Sir Samuel Hoare, but I thought that followed from your last answer, when you said, according to the proportion of population, taking even the total population, not the adult population, there should be 90 general seats and 109 Muslim seats?—It was a consideration to be taken into account. I do not say it was the only consideration. We had to take many considerations into account and that was not the only one we took into account.

7487. May I point out that every consideration which has been shown in the other cases has been denied to the Hindus? Take, for instance, the representation of European seats. I am not suggesting, as Mr. Ghuznavi has done in his note, that this is the widest weightage known in the world, and so on. I am accepting that their position in commerce and industry may justify 31 seats. The Government of Bengal suggested something should be done for the Hindu community. Never mind: let that go; you have not taken that into consideration at all. Have you, in connection with the Hindu ratio, taken any items into consideration, except population?—I am not prepared to go into the detailed reasons that have made us give this decision: It was made quite clear, when the communities themselves failed to agree, that the Government was to be given a free hand to take what decision it thought fair. It was always assumed that the decision would then pass to us, and we must be left completely free to take what decision we thought fair. I think every member of the two early Round Table Conferences accepted that decision. We did not want to give this decision. All I can say is that there was no part of the communal decision that caused us greater anxiety or over which we took more meticulous care than the question of Bengal. For days and weeks we investigated every aspect of the problem, and after this very long investigation, in which we were in constant touch with the Governor and the Government of Bengal and the Government of India, we came to the view that our decision was a fair one.

7488. May I get some facts before the Committee. I am not putting any argument; I only want to put some facts so that the Committee can get them in a short compass. The communal decision is dated the 17th August, 1932 ?—August 16th.

7489. In my copy it is the 17th. One day does not matter. Under this award or decision the net result of that was, as regards the depressed classes, that they would vote in the general constituencies, and their number of seats would be 10, and the arrangement would come to an end after 20 years. To put it very shortly that was the decision ?—Yes.

7490. The other date is the 18th August, 1932. That is the date on which Mahatma Gandhi wrote his letter to the Prime Minister—(I am quoting the words)—threatening a fast and saying: "This fast will cease if the British Government will revise their decision and withdraw their scheme of representation for the depressed classes." Mahatma Gandhi wrote this letter to the Prime Minister threatening a fast and these consequences. Does that date agree with your information ?—I have not got the dates here. I take it the dates are accurate.

7491. Will the Secretary of State accept this course ? May I put all these dates in my questions, and, if there is any mistake it can subsequently be pointed out either by communication or by some other means ?—Yes.

7492. I am giving the dates. On the 18th August that letter was written by Mahatma Gandhi to the Prime Minister. On the 8th September, 1932, the Prime Minister wrote back to Mahatma Gandhi pointing out that the Prime Minister's scheme, that is to say, the communal decision, had not separated the depressed classes from the Hindu community. The point is the date; on the 8th September the Prime Minister tried to reason with Mahatma Gandhi that nothing wrong had been done. On the 15th September, 1932, Pandit Madan Mohan Malaviya issued a notification in some of the newspapers calling a Conference to be held at Delhi on the 17th and 18th September. The invitation as it appeared in the Press was stated to be "To a few friends." That is the 18th September, 1932. On

the 16th September, 1932, another announcement was made by the same gentleman, Pandit Madan Mohan Malaviya in the Press that the venue had been changed from Delhi to Bombay, and, on the 20th September, 1932, the fast which later on was described as the fast unto death, began. On the 24th September the condition of Mahatma Gandhi was announced to be very serious, and on the 25th September, 1932, the pact was signed. These are the dates I am giving to you. You can subsequently either correct them or accept them ?—Yes.

7493. In my next question I am giving you some other dates, and I will not press for an answer if you are not prepared with an answer just now, but I am only indicating my case broadly because I shall call witnesses on these points to prove these facts. The pact was signed at Poona on the 25th September, 1932. In this pact there are many signatories. I do not want to read out all the names. There is no signatory representing the Bengal Hindus, and the very next day, on the 26th September, 1932, at Delhi, at 11 o'clock, the Home Member announced the acceptance of the pact by His Majesty's Government, and he said: "His Majesty's Government has learned with great satisfaction that an agreement has been reached between the leaders of the depressed classes and the rest of the Hindu community." That was the very next day it was announced in the Assembly. These are the dates if you will kindly check them. May I take it, judging by those, as also by your answers which you were pleased to give yesterday, that the Government here was under the impression that an agreement had been reached between the leaders of the depressed classes and the rest of the Hindu community ? That must have been your impression ?—I will answer your question when you have finished it.

7494. I have finished this question ?—The Government, rightly or wrongly, have, under the terms of paragraph 4 of their original Communal Award accepted the Poona Pact as an All-India agreement between the parties concerned, that is to say, between the depressed classes and other Hindus. Everyone in public life in India must

have known that the negotiations from which the Poona Pact emerged were in progress, and it was to be presumed that any interested parties would take steps to secure that their views were not overlooked. It is perhaps not without significance (and I would draw the attention of the Committee to this fact) that no protest from Bengal seems to have come for a considerable time after the announcement of the Pact. Indeed, during the course of the discussions we received scores of telegrams in favour of the Pact; not a telegram against it, and, amongst those scores of telegrams, I remember off-hand a telegram from a very distinguished Hindu in Bengal, Sir Rabindranath Tagore. I do not know when protests first began to be made in Bengal, and I cannot trace that any representations were made to His Majesty's Government until something like three months after their acceptance of the Poona Pact. The Government expresses no opinion on the merits of the Pact in relation to Bengal. They would, of course, be perfectly ready to accept any modification in respect of Bengal reached by mutual agreement between the parties concerned, but the Government, as a Government, is precluded by the terms of its original communal award, from itself taking part in any negotiations towards that end.

Mr. M. R. Jayaker.

7495. What was the nature of the telegram sent by Sir Rabindranath Tagore? Did he approve of the Pact?—Urging the Government to accept the Pact.

Sir Tej Bahadur Sapru.] May I, Sir Samuel Hoare, tell you and the Committee one thing with regard to this matter? Both Mr. Jayaker and I happened to be in Poona for about four or five days during the progress of these negotiations. I have a very distinct recollection that telegrams were received from Bengali Hindus. I, personally, received a telegram from two or three important Bengali Hindus. I have not got those telegrams here, but I will further add that Sir Rabindranath did pay a visit to Mr. Gandhi in jail at the time, or shortly after the opening of the fast. That is my recollection. I am speaking subject to correction.

L106RO

Sir Hari Singh Gour.] He did.

Sir Tej Bahadur Sapru.] There was some sort of ceremony held. I left Poona immediately after the signing of the Pact; all this happened after I left. Probably, Mr. Jayaker was there, and he will be able to make a statement.

Mr. M. R. Jayaker.] I was not there when Sir Rabindranath Tagore called; I was not present in Poona.

Sir N. N. Sircar.

7496. Is Sir Samuel Hoare aware that Sir Rabindranath Tagore is a Brahmin?—I take it from Sir Nripendra Sircar that that is so. The indisputable fact, however, is that for many weeks we received almost countless telegrams and letters from India urging the acceptance of the Pact and not a single protest against it.

7497. I will not go into minute details, because I am waiting for evidence to be called upon this point, but have you scrutinised those telegrams? Whether they were all coming from Congress people?—They were all coming from Hindus, and I would not for a moment accept the suggestion that they came exclusively from Congress Hindus.

7498. As regards the sufficient protest not having been made at or about the time and telegrams coming from some people, may I put this situation to you, that when Mahatma Gandhi uttered that threat, it was not a question merely of a large section of the Hindus being ground down. Is it not right to say that that was the position also of His Majesty's Government?—That never entered into our minds at all.

7499. Let me put it to you, if it strikes you now in that way. When he said: "I am going to fast myself to death unless the British Government do this, that, and the other", you did not point out to him section 508 of the Indian Penal Code and say: "This is a crime, but we propose now to let you out of jail." Was not that His Majesty's Government's understanding also, because of overriding considerations, because if the man had been allowed to carry out his fast, tremendous consequences might have arisen. Therefore, you not merely acquiesced in what was an offence under the Indian Penal Code, but your offer was that a

man who ought to be kept in jail for other reasons, should now come out into the open. I am putting to you this ?—Sir Nripendra Sircar can rest assured that we did not in any way act under any sort of threat or in any atmosphere of emergency. The only aspect of the question to which we looked was this : Was the agreement reached an agreement such as we had contemplated under the communal decision, judged by all the evidence that was available to us ? Then, and for many weeks subsequently, it seemed to us quite conclusive that it was such an agreement.

7500. I think you are aware that a representation was made to the Prime Minister by a letter from me in December, 1932, enclosing certain telegrams which had come here in November from members of the Bengal Council ?—I am aware that Sir Nripendra Sircar has taken a very close interest in the question from start to finish.

Sir N. Sircar.] I sent that letter on to the Prime Minister as requested by the Members of the Council, and you will find that before I sent to the Prime Minister this telegram of protest from the 25 Members of the Bengal Council, that Bengal are not represented, and so on, it was shown to Dr. Ambedkar, who sent a telegram to Bombay to find out what their reply to this telegram was. I thought it fair to show it to him, so that he could get his version from Bombay, and this is the reply which he got.

Dr. B. R. Ambedkar.] I am sure I did not do anything of the sort, if Sir Nripendra Sircar will forgive me. Sir Nripendra Sircar represented that he showed to me a certain telegram and asked me to get certain information about it from Bombay. I did not do anything of the sort.

Sir N. N. Sircar.] I have got the copy which was handed over to me by Dr. Ambedkar, and I will read to you the reply which he got.

Dr. B. R. Ambedkar.] It is not a reply ; it is an independent telegram sent to me.

Sir N. N. Sircar.] The point is the contents of the telegram, which said that the Bengal Hindus are bound by reason of their default in not appearing at

Bombay, that is to say, it was put on the ground that we were bound because we had not taken part in the Pact. I think you must have found that in the telegrams that were sent to the Prime Minister.

Witness.] I think it is very unfortunate that those telegrams were only sent in December, and were not sent when the negotiations were actually in progress.

7501-2. The telegram was in November. It was sent in December, because I was waiting for the replies, and so on, and the Bengal Council met for the first time after these negotiations in November. As soon as they met, 25 members sent this telegram, or representation, to the Prime Minister. I only wanted to point out to you that whatever may be said, it has been the case that Bengal has gone by default. The case of Bengal has never been made, even in that telegram. Now the next matter to which I draw your attention is a very short one. Does Sir Samuel Hoare agree with the view that the situation which has been created as the result of the Poona Pact and the communal decision, will lead to very terrible and serious consequences in Bengal ?—No, I do not think I do.

7503. Is it your opinion that if the vastly preponderating majority of seats of the Muhammadans, 119 seats, are reduced by 10 or 12 seats, that will lead to terrible consequences in Bengal ?—I do not accept the phrase, "vastly preponderating majority", nor do I think that the result will be disastrous.

7504. I am now going to another point altogether for certain information ; I think I gave notice of this to your office as well, Sir Samuel. Without going into details, you may remember that when Mr. James, of the European Association, was in the Witness box, and also Sir Edward Benthall, they said that there was a general feeling of nervousness in Bengal about the large expansion of the franchise and the large number of seats allocated to Bengal. In connection with that, I put a query, or rather asked the India Office to supply you with certain information, and my question is this : In Bengal the recommendation of the Lothian Committee has been to enfranchise 16 per cent. of the total population against 7½ per cent., the maximum recommended by the Government of Bengal, and 10 per cent. re-

commended by the Bengal Provincial Committee which acted in connection with the Lothian Committee. The information I want is this: I am not talking of the question of ratio, that is quite a separate chapter altogether but assuming that the number of seats is reduced to 200 from 250, and the franchise is accepted at 10 per cent. as recommended by the Bengal Provincial Committee, as against 16 per cent. recommended by the Franchise Committee, what will be the difference in expense? I want only a rough estimate, if that is possible?—The only figure that I have is an estimate from the Bengal Government of the additional annual expenditure on the Legislature, if the White Paper proposals are adopted. That estimate is 1½ lakhs per annum recurring, with capital expenditure of 6½ lakhs on fresh accommodation for the Upper Chamber. It is not stated how much of the recurring cost is due to the Second Chamber. The additional cost of each general election, taking the White Paper franchise, which would yield 15 per cent. of the population, is given as 11 lakhs. I cannot give any very accurate answers to these questions, but it would appear that, roughly speaking, the saving, if no Second Chamber were established, and the Lower Chamber were 200 instead of 250, would be something like 1 to 1½ lakhs a year, with a saving in capital expenditure of 6½ lakhs, and that the reduction in the electorate would save an approximate sum of from 1 to 1½ lakhs a year, assuming on the average a general election to be held every three years.

*Sir Hari Singh Gour.*

7505. Five years?—We were assuming three years. We were assuming that we had better take a very conservative estimate.

*Sir N. N. Sircar.*

7506. From your answer, I gather that it is not possible for you to say what is going to be the estimated cost of the Second Chamber only as provided for in the White Paper?—I have not got any figure available. If I can get at a more accurate figure, I will let Sir Nripendra Sircar have it.

7507. Now another question is this; I think it will be the last I shall ask you,

Sir Samuel. You may remember when I put to Mr. Villiers that if the number is reduced to 200 from 250—I am talking of the number of seats, and again I am not going into the question of ratio on this part of the case—he said there would be no further difficulty in the matter of getting representation of all the interests involved in Bengal, of the Muhammadans, the Hindus, the Depressed Classes, and so on. Have you any definite views on the matter? Do you think there will be any difficulty? Is there any necessity for this number of 250?—I do not think I should go so far as to say that any particular number is verbally inspired. What I can say is that taking into account the very many interests in Bengal, and taking into account also the problem of the communities, 250 seemed to us to be a good number. I will not put it higher than that.

7508. I think I take your answer to mean that you are not in the position definitely to differ from Mr. Villiers's opinion that 200 might do?—I would neither differ from it, nor would I agree with it. These problems of representation in Bengal are so complicated and so controversial that I would rather not express an opinion.

7509. My last question will be this: Do you think there is any objection—I gather you have no objection from your last answer—or would you think it advisable to have an inquiry into this matter as to whether there is really any necessity for 250 members?—Off-hand, I should hesitate to support a special inquiry of that kind anywhere. I think it would immediately open the floodgates to inquiries all over India. After all, we have made this recommendation as the result of two or three years of discussions of this and cognate questions.

*Sir N. N. Sircar.*] That is all I ask, thank you.

*Dr. B. R. Ambedkar.*] My Lord Chairman, may I have your attention for a moment to make a very brief statement with regard to a question or two that was put by Sir Nripendra Sircar, in view of the fact that he may not be here when my turn comes? Sir Nripendra Sircar said that he got a telegram during the course of the Third Round Table Conference last year and that he showed it to me and that I made inquiries with

regard to that telegram, and that I got a certain telegram in reply to that. The point that I would like to make clear so that Sir Nripendra may have an opportunity to correct me if I am misstating anything is this : The telegram which I got was not a telegram in reply to any inquiry that I made.

Sir N. N. Sircar.] I may cut the matter short.

Dr. B. R. Ambedkar.] I just want to say a word.

Chairman.] Please let Dr. Ambedkar make his statement.

Dr. B. R. Ambedkar.] The telegram to Sir Nripendra Sircar was published in the Indian papers and when the members of the Anti-Untouchability Board that was established by Mahatma Gandhi after his fast was over learned that this telegram was sent to Sir Nripendra Sircar protesting against the Poona Pact, they, of their own accord, sent me the telegram to which Sir Nripendra Sircar has made reference. It was not in reply to any inquiry that I made. The next point I want to bring to the notice of the Committee is that when Sir Nripendra Sircar showed me the telegram he got from his Bengal friends protesting against the Poona Pact, he told me that all he was going to do was to send that telegram to the Prime Minister, without any comment, for his information. On the day before he left he very kindly sent me a copy of the letter which he addressed to the Prime Minister. In that letter I found that Sir Nripendra Sircar had not only forwarded the letter to the Prime Minister, but had urged upon the Prime Minister to make an inquiry as to whether the Bengal caste Hindus were represented at the time when the Poona Pact was settled. In view of that I also immediately wrote a letter to the Prime Minister, a copy of which I shall present to the Committee when my turn comes, in which I also forwarded the telegrams which I had received, and I also stated that the fact mentioned in the telegram that the Bengal caste Hindus were not represented when the Poona Pact was made was not correct to my knowledge, because I knew, as a fact, that several members from the Bengal caste Hindus were present when the Pact was made, that they had had conversations with

me and had pressed me to come to terms. That is all I want to say at this stage.

Sir Akbar Hydari.

7510. I want to ask very few questions regarding the Legislature. Two hundred members for the Upper House and 300 for the Lower House was a compromise reached at the Second Round Table Conference. Would you agree that this compromise was in the nature of a balance struck as between those who were in favour of a small Federal Legislature and those to whom numbers were comparatively unimportant?—I think that was generally the case. Sir Akbar will remember that at the first two Round Table Conferences there was a protracted discussion about the numbers for the Legislature. Some wanted to keep the numbers very low. I remember the proposal was made that the numbers should not exceed 100 for the Upper Chamber and 200 for the Lower Chamber. On the other hand, other members of the Conference proposed numbers I think as high as 500 or 600 for the Lower Federal Chamber, and the number that Sir Akbar has just mentioned was at that time regarded as something in the nature of a compromise between those two points of view.

7511. Then came the Lothian Committee who recommended an Upper House in which British Indian seats would have numbered 200, and a Lower House in which British India would have had 300, or, if the States' quota were added, a Legislature of 300 in the Upper and 450 in the Lower House. Would you agree that the numbers recommended in the White Paper are, in their turn, a balance struck between the compromise arrived at at the Second Round Table Conference and the recommendations of the Lothian Committee?—I do not think I would agree that it was a compromise between the two points of view. Our figures rather were founded upon the need, first of all, of meeting the wishes of many of the States who felt that their interests might be ignored in much smaller Chambers, and, secondly, with a view to ensuring a reasonable representation of British India, assuming the general basis of the Lothian Report.

7512. Was not the general basis of the Lothian Report which led them to prefer direct to indirect election and to increase the number of both Houses so considerably beyond what had been agreed to at the Second Round Table Conference a desire to enable the members of the Federal Legislature to establish effective contact with their constituents?—Perhaps Lord Lothian would answer the question from the point of view of his Committee. I certainly admit that the problem of direct and indirect election must have a direct bearing and always has had a direct bearing upon the size of the Chambers in the Federal Centre; but perhaps Lord Lothian would amplify that answer because the point is directed mainly to him.

Marquess of *Lothian*.] I can answer it in two words. In the first place, the Franchise Committee recommended no alteration in the Upper House. They accepted the figures of the Second Round Table Conference. As regards the Assembly, when they came to examine the figure of 300 which was proposed by the Second Round Table Conference for the Lower House they were impressed by the fact that 200 seats of those only would be allotted to British India, that a certain number of those seats would go to special interests, and therefore that the number of seats left for general constituencies, especially under a Communal Award, would inevitably involve very large constituencies from the point of view of area and numbers. They therefore thought, in point of view of diminishing the difficulty of maintaining contact between the member and his electorate, it was desirable that the number of seats for the Lower House in British India should be raised from 200 to 300.

Sir *Akbar Hydari*.] May I ask Lord Lothian whether the numbers in the Upper House were not raised by his Committee to 300 from the 200 previously agreed?

Marquess of *Lothian*.] Here are the actual words of our recommendation, on page 163, paragraph 400 of the Franchise Committee Report: "So far, therefore, as the Senate is concerned there is little for us to say. We

recommend no increase in the numbers of the Senate, both because an upper house should be a smaller and more compact body than the lower and because the present quota allotted to the provinces is as large as can conveniently be elected by the legislatures, if their own members are not to be liable to undue depletion."

Sir *Akbar Hydari*.] As soon as you recommended 450 for the Lower House, then, taking into account the whole structure of the Federal Legislature and the relations between the two Houses, was it not inevitable that that would lead to an increase in the strength of the Upper House; and it was that consideration which led His Majesty's Government, in the White Paper, to increase the number of seats in the Upper House.

Marquess of *Lothian*.] May I refer Sir Akbar to the last sentence of paragraph 396, page 161: "Moreover, we recognize that in framing our proposals we are thinking of British India alone, and that before final decisions are taken regarding the federal legislature, further discussion between the representatives of the Indian States and of British India as well as of the British Government, will have to take place"? I think the figures in the White Paper are the result of those further discussions.

Sir *Austen Chamberlain*.

7513. Is not it clear that if certain questions are to be settled by a Joint Session, if you increase the numbers in the Lower House, you must increase the numbers in the Upper House in order to maintain the original proportion between the two in the Joint Session?—That, my Lord Chairman, is one of the reasons that made us make this proposal. It is not the only reason. The other reason was the strong feeling amongst a substantial number of the States for a sufficient number that would enable a good many of them to have direct individual representation in the Upper House.

Sir *Akbar Hydari*.] I will turn again to the other question: Coming to Lord Lothian's statement, was it not that in the construction of the Federal Legislature the representatives of the States should have been consulted by the



Lothian Committee or the Lothian Committee should have left that matter separately for consideration before they gave the imprimatur of an expert committee like that to certain numbers for British India which would inevitably lead to any case for the consideration of that question being prejudiced thereby?

Marquess of Lothian.] I can only answer by referring to the Letter of Instructions to the Indian Franchise Committee: "To your Committee His Majesty's Government will look for complete and detailed proposals on which to base the revision of the franchise, and the arrangement of constituencies for the new legislatures, central and provincial, which are to form part of the constitution envisaged in the statement to which I have referred." Which was the Prime Minister's statement to Parliament. "And since upon these detailed proposals must largely depend the size and actual composition of the Legislatures, His Majesty's Government hope that your Committee will be in a position, in due course, so to frame their proposals as to present a complete and detailed scheme for the composition of each of the Provincial Legislatures and of the Federal Legislature." I think that is all that is relevant, and it was in the light of that that we proceeded. As I pointed out to Sir Akbar, we were considering definitely only the British Indian aspect and these other matters would have to be a matter of negotiation between the Indian States, British India and His Majesty's Government later on.

Sir Akbar Hydari.

7514. At any rate, it was recognized that one of the principal reasons for the Lothian Committee going and recommending these numbers was in order to establish effective contact with their constituencies, a consideration with regard to which the First Round Table Conference had given very great attention, and they record the matter as follows in paragraph 30 of the First Round Table Report: "The trend of opinion as to the size of the Lower Chamber was that it should consist of approximately 300 members thus providing roughly one representative for each million of the inhabitants of India. On the other hand, the view was strongly expressed that the requirements

of efficiency would not be met if the Chamber were to exceed 200 as a maximum. The Sub-Committee, as a whole, recognized the force of these considerations and also of the desire for a Chamber of sufficient size to afford a reasonable approach to adequate representation of the population. But since no real approach to this latter ideal could be secured without enlarging the Legislature to an undue extent, the Sub-Committee think that, having regard to the great importance which must be attached to efficiency of working, 250 should be adopted as the number of seats to be provided in the Lower Chamber." Therefore, I want to submit that, really speaking, so far as the Lothian Committee was concerned, it had before it the problem of British India, and in framing their recommendations for the strength of the British India quota, they had this point mainly in view. Would you agree, Secretary of State, that Sir Austen Chamberlain's questions and the answers thereto have shown that this ideal of establishing contact would have been imperfectly reached even if the Lothian Committee recommendations as to size had been adopted?—I think certainly if you take the conception of representative government that we have here, it would only imperfectly be applied in conditions such as you have mentioned.

Mr. Rangaswami Iyenger.] Would it be correct to say that in the case of the Indian States representation there would not be anything like the contact between the member and his constituency that there would be between the member and his constituency in British India in the Federal Assembly?

Sir Akbar Hydari.] I am coming to that. I am not contesting it. All I am trying to find out is as to how these numbers have come to be what they are, and whether these numbers really satisfy the condition that you had in view and, if they do not, whether the problem does not deserve re-examination and reconsideration?

Sir Tej Bahadur Sapru.] May I put a supplementary question arising out of that?

Chairman.] I would rather hear the Secretary of State's answer to that first. I am not quite sure what is the question to which I am expected to reply.

*Sir Akbar Hydari.*

7515. I replied to Mr. Rangaswami Iyenger. I followed up the question by asking in supplement to the last question to you, Secretary of State, that the ideal of effective contact, which has been admitted to have been very imperfectly reached by the Lothian Committee's figures, would be still more imperfectly reached under the figures recommended in the White Paper, because under them the size of the constituencies will be even bigger than their size under the Lothian Scheme?—You mean, Sir Akbar, that we have reduced the numbers and, therefore, the constituencies become bigger?

7516. Yes?—That is so.

*Sir Akbar Hydari.*] And, therefore, the whole basis for increasing the number in order to create an effective contact is a basis which really has not been reached, and, therefore, you should seek some other basis for providing for that contact. That is all that I want to urge.

*Sir Tej Bahadur Sapru.*

7517. May I put one question to you, Sir Samuel? Is it, or is it not, a fact that so far as the Indian States' representatives themselves are concerned, there has been a great divergence of opinion between two sections of them, one represented by Sir Akbar Hydari and the other represented by their Highnesses the Maharajah of Bikanir and the Nawab, whose views approximated more nearly to the British-Indian point of view on the question of the size of the Legislatures?—That has been one of the difficulties with which we have been faced, namely, to reconcile the two points of view; the first, the need to have an efficient Legislature and a Legislature not too big; secondly, the need to ensure such representation for the Princes as will make them feel that their weight is really being felt in the Legislature.

7517A. And you include among them the Central States, too, and their point of view?—I am including all the various groups of States.

*Mr. M. R. Jayakar.*

7518. May I ask, on that supplementary question, is it not a fact that those representatives of the States, like their

Highnesses of Bikanir and Bhopal, who favoured larger Houses did so partly for the consideration that larger Houses will provide for a better representation of the smaller States than smaller Houses would?—I do not think I would like to be drawn into giving an account of what was in their Highnesses' minds, or what was not; but it is true to say, that there were three views expressed by the representatives of the Princes. There was the view for very small Chambers—indeed, the view was expressed for only one small Chamber at one time; then there was the view expressed by His Highness of Bikanir and those of the Princes who were working with him, for a moderate sized Legislature; and there was a third view, I think chiefly expressed by some of the very small States, for very big numbers. My own view has always been that we must hold the balance between those three points of view. I have also thought, and I have constantly expressed this view in our former discussions, that whatever plan we have for the Princes' representation will inevitably involve grouping. It is quite out of the question to contemplate the individual representation of this very large number of big, medium, and small States.

*Sir Austen Chamberlain.*

7519. It really has been a question of the degree to which grouping is to be carried?—Exactly.

*Sir Akbar Hydari.*

7520. That is exactly the point which I thought might be mentioned. I have no desire whatsoever that the point of view of any one particular section of the States should have predominance. All that I feel is that it is possible, from the strong emphasis which many of those very States have laid upon equality of representation, as far as possible, along with individuality of representation, it is a matter worth pursuing, if on other grounds you are convinced of the merits and necessity of small Legislatures. It is worth pursuing and examining whether from the Indian States' point of view, you will not be able to get the Princes to agree to a smaller House, to a smaller quota; if it is once felt that, on the one hand, what will happen will be that

the larger States will have to give up a large number of the plural voting they will have and that grouping will be inevitable ; that many of these other States will all get individual representation. All that I was trying to ask for was not any definite decision from the Secretary of State, but what I was suggesting was that if on other grounds indirect election is necessary, and on other grounds the smaller Legislatures are necessary, then, is it not desirable that this question with regard to the representation of the Indian States and what the large majority of the Indian States desire, should really receive further examination ?—I would certainly say that we should have to pay very great attention to what any large majority of the Indian Princes think upon the subject.

7521. All that I submit is that I do not know whether that question and that issue have been placed before the Indian States in the way and in the manner in which you might be able to get a real and effective opinion ?—My own position, my Lord Chairman, has always been clear in this matter. I have always been in favour of having the Legislature as small as ever we can make it, taking into account the interests that have got to be represented and the purposes for which it is required. I, myself, would welcome any proposals that would diminish the numbers if those two prerequisite conditions can be justified. My difficulty has been that so far it has seemed to me to be almost impossible to satisfy the requirements of the Princes with very small numbers, and it has also seemed to me to be almost equally impossible to satisfy public opinion in British India ; but I say once again this morning that, upon grounds of abstract merit, there is a great deal to be said for small Chambers at the Federal Centre.

Sir *Manubhai N. Mehta.*] May I also request that besides considering the personal opinion of Sir Akbar Hydari—

Sir *Akbar Hydari.*] It is not a personal opinion ; it is the opinion of many States.

Sir *Manubhai Mehta.*] I will refer to that as a personal opinion by quoting from Sir Akbar Hydari's remarks at the Second Round Table Conference. Besides

that, there is a large consensus of opinion on behalf of the Princes which may also have to be heard here, if there is time to do it.

Sir *Akbar Hydari.*

7522. I want to make it clear that I do not want to pursue this subject to any final conclusion now. All that I was suggesting was that the question of the strength of the Legislature appeared to me to be of such fundamental and paramount importance with regard to the functions which it will have in being the Instrument of the grant of responsibility in the Centre and the kind of questions with which that Legislature will have to deal, highly technical questions, the fact that you will have to bring this Legislature into relation with Provincial Legislatures, the fact that the Provincial Legislatures will themselves be on a very democratic basis—all these facts lead me to the position that this matter of the strength of the Legislature is of such vital importance that you cannot pay too great attention to it, and that there should be a sufficient examination, and all possible avenues explored of bringing together the various interests into some common agreement. What I thought from the answers which the Secretary of State gave was that it was mainly a political question, the urge, on the one side, of British India, and the urge, on the other side, of a large number of States, which led him to decide upon a number much larger than what we had agreed to in two Conferences after detailed consideration—much larger than what he himself thought was on abstract principles desirable ; that it was the political considerations which led him to this conclusion ; and what I submit is that, possibly, some others might interpret the political conditions in a different way, and might feel that, possibly, gradually, the urge of British India, especially through the Provinces, and the urge of the Indian States when they realised that their interests would be much better served by the election of representatives of experience through groups, individual views in votes, I felt that, possibly, ultimately, these very political considerations might change and lead to the demand for a smaller House ; but then it would be too

late, because, as you all know, if you start from a large basis, you cannot contract, but you can always expand from a small basis to a larger one; therefore, all that I want to submit to-day is that this is a question which still it is, I think, not too late to explore further, and before the Committee comes to a final conclusion?—I should like myself to hear the views of other representatives of the States before I make a comment on Sir Akbar Hydari's very interesting statement.

Sir *Manubhai Mehta*.

7523. I thought it was an examination, not a discussion?—People define it in different ways.

Sir *Mirza M. Ismail*.

7524. I should like to say something, not so much with regard to the size of the Legislatures as with regard to the composition and character of the two Houses. I should like to ask the Secretary of State if he agrees with the view that the two Chambers, as suggested in the White Paper, are a little differentiated from each other in composition and therefore in outlook?—I think under the White Paper proposals there is a definite difference between the two: the Lower Chamber elected directly by the electorate; the Upper Chamber elected by the Provincial Council constituted into an Electoral College. I think that does make a definite difference between the two.

7525. Both are elected Chambers, are they not?—Yes.

7526. So in a Federal Constitution, is it not necessary to have at the top representatives of the Governments of the federating units as well?—That is certainly one conception of a Federal Government. It was the conception, I think, of the old German Empire, the Upper Chamber representing the Governments, the Lower Chamber either the States or the Nation; and there are strong arguments to be urged in favour of a proposal of that kind. But, here again, when the proposal has been made that the Upper Chamber should be a Chamber representing Governments, it has found very little support, indeed, scarcely any support. I believe I was bold enough

once to throw out the suggestion myself; I do not think I found any support anywhere at all.

7527. Sir A. Hydari, I think, has supported the proposals?—Perhaps I did have one or two friends, but I had not many.

Sir *Austen Chamberlain*.] Perhaps you have more to-day.

Sir *Mirza M. Ismail*.

7528. It seems to me a proposal which is well worth considering, because, according to the proposals now put forward, the proposals contained in the White Paper, the political factor is represented in both Houses, but we have not got the other and most important factor, that is, the Governments of the Federating units. It seems most desirable in a Federal Constitution that they should also be represented. Moreover, according to the proposals in the White Paper, the Ministry is made responsible to both Houses. Is that not so?—Yes.

7529. And that is not the case, even in England; the Ministry is not responsible to the Upper House?—I do not know what the Noble Lords would say about that. I would rather not give an opinion.

Mr. *Zafrulla Khan*.] My Lord Chairman, may I, in connection with this, draw the Secretary of State's attention to this: His replies indicate that the Chamber will be of one character or the other. It is not so. The Upper Chamber, as visualised in the White Paper, will be partly composed of representatives of the Legislatures of the units, and, to the extent of 40 per cent., composed of the nominees of the Governments of other units; and the Lower Chamber will be composed to the extent of 66 per cent. of the representatives of the nation or representatives of the peoples of certain units, and, to the extent of 33 per cent., of representatives of the Governments of other units, so it will be a kind of Legislature in which to a very large extent the Government of certain units will be represented, and with regard to the rest, in the Upper Chamber the Legislatures of other units, and in the Lower Chamber the peoples' units, and so you will have a sort of compô of elements.

Sir Akbar Hydari.] Is not what Sir Mirza Ismail had more in mind and what, at least, I had in mind with regard to British India, that in the matter of Finance and Taxation, in order to have co-ordination between the different methods of taxation, direct and indirect—for instance, the Provinces and the units will have more direct taxation at their command, and the Centre will have indirect taxation; and in regard to such questions as transport, which will be another of the main things with which the Central Government will have to concern itself, there will be the question of trunk railways, which will be all with the Centre. There will be railways and roads, and other methods of transport which will be with the Provinces. In all these questions, will it not be that the Provincial Governments, as Governments, would require to have a voice, when questions of this kind are taken up by the Federal Cabinet. It is not merely that you provide for the representation of the Legislatures, but what I believe Sir Mirza Ismail had in mind. What I had in mind certainly was that we had repeatedly been impressed with the necessity of bringing in the Provincial Governments and Ministers into contact and liaison with the Federal Government.

Mr. Rangaswami Iyenger.] Do you mean that these Provincial Ministers are going to be present at the Federal Legislature to present the Provincial Government's point of view on all subjects?

Rao Bahadur Sir Krishnama Chari.

7530. They might send delegatés?—May I be clear about what is exactly in Sir Mirza's mind? This does not come up directly perhaps on questions of franchise, but it is very closely connected with it. Supposing the Upper Chamber was a Chamber of nominated Ministers, and the Lower Chamber was a Chamber in which anyhow a large percentage of the Members would be elected, the very difficult problem then comes up of the relations between the two Chambers.

Sir Mirza Ismail.] The Upper House would have to possess different functions altogether. It would be the Federal organ of the State.

Mr. Rangaswami Iyenger.] That is true. It would be a kind of administrative Council.

Sir Mirza Ismail.

7531. I have explained that in my remarks at the Second Round Table Conference?—It does in actual practice, does it not, Sir Mirza, leave a single Chamber in the Federal Centre to which the Federal Government is responsible. I am not now arguing whether it is a good plan or a bad plan, but it is single Chamber Government from the point of view of the responsibility of the Federal Government at the Federal Centre.

Sir Mirza Ismail.] Not necessarily so, because the Federal Council would have an effective voice in regard to many matters. It would have a suspensory veto on laws passed by the Federal Assembly with which it did not agree. It would be a much more effective check over the Lower House than the present Upper House would be because what you are now devising appears to be a bicameral system, but in reality it would work as a unicameral legislature with the Ministry responsible to both Houses. It might be at loggerheads with the one or with the other, if not with both. You are exposing the Ministry to danger of attack from one or other House of the Legislature.

Lord Irwin.] May I ask Sir Mirza one question on this evidently important question. If I understand Sir Mirza's plan aright it is that the Upper Chamber (the Federal Council I think he calls it) would be composed of representatives of the Governments from the Provinces.

Sir Mirza Ismail.] The Governments of the Federating units.

Lord Irwin.] The federating units.

Sir Mirza Ismail.] I would allow a certain number of State nominations.

Lord Irwin.] I do not want to elaborate it, but it will be composed of representatives of Governments.

Sir Mirza Ismail.] Yes.

Lord Irwin.] Therefore, so far as the British Indian Provinces are concerned presumably of Ministers.

Sir Mirza Ismail.] Not Ministers. They would not go there themselves, or they may not go there themselves, but

they would send some delegates who would be nominated.

Lord *Irwin*.] That answers my question because the difficulty I was feeling was that it would be very difficult indeed for any Minister probably to be doing more than one job.

Sir *Mirza Ismail*.] They would send some representatives to voice their views with regard to any matter which was coming up before the Legislature.

Marquess of *Reading*.] Suppose that the particular Ministry falls in the province, would it then change its nomination?

Sir *Mirza Ismail*.] They could even send each Session a different man.

Marquess of *Salisbury*.] They would change.

Sir *Mirza Ismail*.] They would change.

Lord *Peel*.] Those nominees of the Ministers would be under the direct orders of the Ministers, and would have no independent judgment at all.

Sir *Mirza Ismail*.

7532. That is so, because what is wanted at the top of the Legislature is that the Federal Government should be in a position to know what the Government of Madras, or the Punjab, or any other particular Government thinks on a matter which is before them. That is what is wanted. You have provided for a popular element in the Lower Legislature. You might even increase the number to 400, if necessary, to give adequate representation to the Princes. They would be satisfied, and I would go further and say that paradoxical as it may appear, the smaller the Upper Chamber the greater the satisfaction to the Princes. It might appear very paradoxical?—I have looked round at the faces of the other representatives. We shall hear with interest what they have to say.

Mr. *F. Thombare*.] I am very dubious.

Marquess of *Lothian*.] Will the effect of proportional representation be this, that the government of a province which will have a majority in its own Legislature under the responsible Government will, in effect, nominate its own nominees to go to the Upper House? Is not that

exactly the proposal of the White Paper, apart from size?

Sir *Mirza Ismail*.] I do not understand.

Marquess of *Lothian*.] If you have a system of proportional representation the Government of the Provincial Legislature will presumably have a Government majority?

Sir *Mirza Ismail*.] Yes.

Marquess of *Lothian*.

7533. And they will presumably elect the larger number of the nominees the Government wish to send to the Centre? You are getting what you propose under the system of proportional representation? Sir *Mirza* has made these very interesting proposals once or twice before, and he has circulated (I have a copy of it still) a very interesting Memorandum on the subject. I believe myself it would be a good thing if he was kind enough to do it, if once again he circulated his Memorandum to the members of the Committee. I think this morning if we get into a detailed discussion about a number of alternative schemes we shall never finish.

Mr. *Zafrulla Khan*.] May I add one suggestion to the kind of thing that Lord *Lothian* has put before the Committee. There is this to be considered in addition, that the White Paper proposals give the age of the Senate to be seven years, the age of the Provincial Legislatures will be five. Would the Secretary of State, when he is further considering this question also consider this, that the Senate may be a sort of permanent body, and whenever a local Legislature is dissolved the new local Legislature should elect new members to the Senate, then the majority in a Province will always be more or less reflected in the Upper Chamber.

Sir *Mirza Ismail*.] That is a different principle altogether. The principle of the White Paper is entirely different.

Dr. *Shafa' at Ahmad Khan*.] It would give the same results.

Sir *Mirza Ismail*.] What Lord *Lothian* said was that the Legislature which appoints the Government will appoint the members to the Upper House. Once these members are elected by the Legislature they cease to have any responsi-

bility. They can express their own views, and they do not go and consult the Legislature on every point which comes up before the Federal Government. Once they are elected they are independent, but what the Federal Government would like to know would be the views of the Government of the Province.

Dr. B. R. Ambedkar.] The Government of the day of the Province.

Sir Mirza Ismail.] Of the day.

Dr. B. R. Ambedkar.] And if there were a change of Government of the Province there would be a change of representation at the Centre ?

Sir Mirza Ismail.] At the Centre. If you want to prevent this extreme provincialism that is already developing in India this seems to me to be the best way of doing it. You have already the popular element in the Lower House ; from the democratic standpoint there should be no objection to it because of the democratic Governments in the Provinces.

Dr. B. R. Ambedkar.] Send them with mandates to vote on a particular issue.

Mr. M. R. Jayaker.] If this scheme were adopted, would it not come to this, that although normally the life of the Provincial Legislature would end in five years and, as Mr. Zafrulla Khan pointed out, the life of the Upper House would be seven years, there must be necessarily one change in the personnel.

Sir Mirza Ismail.] According to this White Paper scheme, but not according to the suggestions I am making.

Mr. M. R. Jayaker.] Supposing the Provincial Legislature undergo changes owing to votes of no confidence being passed, say, in the course of five years three times, which is very likely in the earlier stages, does it not contemplate that there will be a change of personnel three times in the Upper House ?

Sir Mirza Ismail.] They would be withdrawn. It is the Federal Government you must remember.

Mr. M. R. Jayaker.] It means there would be a change of personnel three times in the Upper House in five years.

Sir Mirza Ismail.] It would be a small House ; 50 or 60 people might be withdrawn, or the Government might send a different man for every Session of the

Federal Council. Supposing there was a finance question coming up, they would like to send their own Finance Minister perhaps, or a special man to represent their views in that Chamber. I would like the Committee to consider the suggestion. I hope you will not regard it as impertinent on my part if I say it is well worth consideration.

Lord Rankeillour.] Do you contemplate Joint Sessions ?

Sir Mirza Ismail.] No Joint Sessions.

Chairman.] Will you supply to the Committee the Memorandum which the Secretary of State referred to ?

Sir Mirza Ismail.] Yes.

Rao Bahadur Sir Krishnama Chari.

7534. I should like to put one question to the Secretary of State on a point which has not been hitherto touched. The White Paper does not refer to the position of the Advocate General in the Constitution. Has the Secretary of State in mind the appointment of an independent authority like the Advocate General for the Centre. He might be very useful in the Legislature, and might furnish a machinery for the Governor-General's acts, and so on ?—I would like to look into Sir Krishnama Chari's point, and I will undertake to give attention to it ; off-hand I have not got an answer.

Sir Tej Bahadur Sapru.

7535. If I may say so that would fit in with your examination on the Judicature, and I would ask you to look at Section 114 of the Government of India Act ?—Sir Krishnama Chari asked whether I would look into the question of the advisability of having an Advocate General in the Federal Government. I have told him off-hand I could not give an answer to a question like that ; I would look into it.

Mr. Y. Thombare.

7536. It is now realised that the States attach vital importance to the question of their representation in the Federal Legislature, and it has the most intimate bearing on the size of the Federal Houses. Is it not essential that India's own needs and practical conditions must

be the governing factors, and is not the most outstanding feature of India the very large number of Sovereign States very varying in size ?—I think substantially that is so.

7537. Did not the Princes and the British Indians press with a view to secure adequate representation to the States and also to the divers interests in British India that the numbers should be 450 and 300 ?—There has always been amongst the representatives of the States this difference of opinion to which I referred earlier in my evidence to-day.

Sir *Mirza Ismail*.] Would Mr. Thombare be satisfied if the States were adequately represented in the Lower House ?

Mr. Y. *Thombare*.

7538. The States have been making a point of having a strong representation in the Upper Chamber also on account of the co-equal powers that they are aiming at in the two Houses ?—Yes.

7539. Therefore it is essential that the States should have adequate representation not only in one House but in both the Houses ?—Yes.

Mr. Y. *Thombare*.] If the numbers that have been proposed in the White Paper are reduced would not that reduce the representation which the Princes,

(After a short adjournment.)

Mr. *Rangaswami Iyenger*.

7544. Sir Samuel Hoare, you will recollect that I mentioned to you the matter of transitory provisions and asked you to give me some information as to the manner in which you expect these transitory provisions would work under Clause 202 of the scheme. I presume you received my Note on it, Sir Samuel ?—Yes.

7545. The points upon which I want you to tell the Committee what is contemplated by His Majesty's Government in the proposals are, (1) in what way do you expect, for instance, Provincial Constitutions should be brought into being before the Constitution, as a whole, comes into being ? Is it merely a question of bringing the Provincial Constitutions into existence with a view immediately on the basis of setting up the

when they urged Houses of 450 and 300, had in view.

Sir *Akbar Hydari*.

7540. Not necessarily ?—It depends very much upon the kind of grouping that you have in these Chambers. It certainly would obviously reduce the individual representation, but it would not reduce their collective representation.

Mr. Y. *Thombare*.

7541. The point is, the smaller the Houses, there would be so much less individual representation, and, to that extent, a larger number of States to be grouped together ?—I think that must follow.

7542. The Government are already aware that what the States are most anxious about is the preservation of their individuality in the Constitution ?—Yes.

7543. A 50-50 representation in the Upper House is perhaps not a practical proposition. Therefore does not the only chance of many States for securing adequate representation lie in securing comparatively larger Houses, of course, due regard being had to the fact that they are not unmanageable or too costly ?—I think certainly as a general statement that is correct. The trouble, however, is that people define those general statements in different ways.

Central Constitution, for instance, by reason of the fact that without Provincial Legislatures you cannot get the Second Chamber in the Federal Legislature into being, and, therefore, these transitory provisions apply only to the stage at which the Provincial Legislatures have got first to be elected, and some time must elapse before they are constituted, and elections take place, to the Federal Legislature. Is it only for that period that it is contemplated, or is it contemplated that it may become necessary to allow Provincial Constitutions to function for some time before a Federal Legislature may be actually constituted owing to other than Constitutional reasons ? That is the first question that I want to put to you, Sir Samuel ?—Is this your only question, Mr. Iyenger ?



7546. No ; I have a number of questions hereafter. If you will take the Note as I gave it to you, and will give in a general way the answer, I will be content, and I will pursue it later on with other questions ?—The question you have just asked is really a question that raises the big issue of the date when the Constitution is coming into operation, and in what way it is coming into operation. I am quite ready to deal with it now. I was rather assuming that that was coming up later, if Sir Tej Sapru and Mr. Jayaker are very much interested in it, I can deal with it now.

7547. If Sir Tej is here, it will be useful. We shall leave it aside for the present then ?—Yes. Take the next point.

7548. Assuming that some time will elapse before the Local Legislatures and the Federal Constitution begin to function, you have stated here that provision will be made by means of temporary modifications in the provisions of the Constitution Act for continuing the existence of the present Indian Legislature ?—Yes.

7549. That is the first point upon which I want to put a question. What do you mean by saying, continuing the existence of the present Indian Legislature ? Do you mean that the Members of the Indian Legislature will have extended terms of their office, or do you mean that the existing Legislature, constituted as it is, will be re-elected for the purpose of functioning during this transitory period ?—Mr. Iyenger has been kind enough to send me a Memorandum of his views upon what is called the transitory period, that is to say, the period between the time when the Autonomous Provinces are set up and the time when the whole Federation comes into active operation. It is clear to me from Mr. Iyenger's Memorandum that either we have not made our point of view sufficiently clear, or that he, through no fault of his own, does not fully understand our position. He is nervous, I think, chiefly of this kind of thing happening in the transitory period. He is nervous of the Autonomous Provinces being set up, of the Federation not coming into being, and as a result of the setting up of the Autonomous Provinces, the existing Central Government becoming something in the

nature of Crown Colony Government. He assumes that the Viceroy's Council would come to an end, and that, therefore, the Central Government would become a much more personal kind of Government than it is at the present time. My Lord Chairman, that is not our intention. Our intention is to make only such changes in the Central Government during the transitory period as will enable the Autonomous Provinces to be set up, and as will ensure the Autonomous Provinces having full opportunity for developing their Autonomy. We, therefore, propose that within those conditions the Viceroy's Council would continue. Obviously, it would be subjected to alteration, both in its duties and also in its personnel, but always remembering the change that the setting up of Autonomous Provinces has made in the Constitutional picture, we should go on with the Central Government as nearly what it is now as it could be, assuming the conditions that I have just defined. Again, as to the Legislature, we should propose to make no changes in this transitory period in the methods under which the Legislature is constituted. We should either continue the existence of the present Legislature, or, if it looks as if the time of the transitory period was longer than some might expect, then we should have to make arrangements for the re-election of a Central Legislature, but we should do it upon the present basis. We have definitely come to the view, after a great deal of thought, that it is much wiser to deal with the transitory period on those lines than it is to adopt any alternative method for making substantial transitory changes in the Central Government. We think upon every ground that that would be a mistake. In the first place, it would make many people think that the period was not going to be a transitory period at all, but that it was a permanent period that we were contemplating. Secondly, I think that short of the larger changes that we are contemplating under our Constitutional procedure, the fewer smaller changes that are made, the better, from every point of view, and particularly from the point of view of stability.

Mr. Rangaswami Iyenger.] Is it on the principle that as small reforms are

the enemy of large reforms, you would not go in for small reforms ?

Mr. M. R. Jayaker.

7550. May I ask a question to clear one point ? The Secretary of State said that in the meanwhile there will be a change in the personnel of the Viceroy's Council, as I understood the Secretary of State's remarks. Does it contemplate that the Viceroy's future Counsellors will be drawn from the non-official elected Members of the Legislature, although responsible to him ?—I am assuming that the only changes that will be made will be such changes as are necessary as a result of the setting up of Provincial Autonomy. Otherwise, no changes would be made.

7551. You do not contemplate that the future Counsellors will be drawn from the ranks of the non-officials elected to the Legislature, but responsible to the Viceroy ?—No. I contemplate making no changes at all other than those necessary in the transitory period.

Mr. Zafrulla Khan.

7552. But the Secretary of State would not debar the Viceroy from selecting from among any section of the Legislature, if he thought he could find men suitable for his purpose to fill these posts. That is the position as at present ?—Yes, the position will remain exactly as it is.

7553. At the moment, a Member, even of the Legislature, is appointed a Counsellor, he will really cease to be an elected Member of the Legislature ?—Yes.

Sir Tej Bahadur Sapru.

7554. May I put one question at this point ? At the present moment, the law requires that there must be three members of the Executive Council who have put in ten years' service under the Crown ; there must be one member of the legal profession. Will you have the future Constitution during the transitory period conformed to this, or will you give the Governor-General the power to select any man he likes ?—No. As nearly as possible we shall make the transitory arrangement correspond with the existing arrangements.

L106RO

Mr. Rangaswami Iyenger.

7555. May I then take you specifically to the points that I have raised ? At present the Viceroy's Executive Council consists of six people, three of whom are, by existing practice and convention, Indians, and the appointment of the Indians to the Executive Council of the Viceroy is made on the footing that Indians were what Lord Morley described as of Anglo-Indian capacity. What I am asking is, whether in the transitory period that representation, whatever it may be worth with Indian opinion, would have in the existing Constitution, would or would not be kept in the arrangement that we contemplate ?—That would be kept in the arrangement that we contemplate. We should go on as near as possible with the kind of personnel we have got now.

7556. The second point which I think is an advantage (I do not know what you may think) is that the present scheme of Council Government does give the Members of the Executive Council a status and influence for good, and I think in this respect the influence and status of Indian Members as Counsellors would be very important during the transitory period, whether that status and influence as Members of the Executive Council having equal votes which can only be overridden by the special clause in the Government of India Act—whether that position will be maintained as far as possible in the transitory period ?—Yes. Mr. Iyenger will again remember the qualification I made, that the range of duties will obviously be altered by the operation of Provincial Autonomy, but, subject to that, my answer to him is, yes.

Dr. Shafa'at Ahmad Khan.

7557. I suppose, technically, they will not be Counsellors ?—No. I think technically there will have to remain the Council as well.

Mr. Rangaswami Iyenger.

7558. Let us go on to the Legislature. At present your suggestion is that it is better not to disturb the composition of the Legislature during the transitory period. What I am asking you is this : The anomaly of holding an election under the existing electoral system for

the Central Legislature and, at the same time, bringing into existence in the Provinces fully Autonomous Governments, setting up an office responsible to the Provincial Legislatures on a franchise which comprises nearly 20 to 25 per cent. of the population—whether that anomaly would not be felt to be difficult for these Provincial Governments and Legislatures to get on?—I admit it is an anomaly, but it is an anomaly that is inherent in the position. My own very strong view is that it is much better, frankly, to treat this period as a transitory period, and that the more you make arrangements that would make it appear to be a permanent period, the more likely is that period to go on for an indefinite length.

7559. Therefore, you would agree with me, Sir Samuel, that such an anomaly cannot be tolerated except for the very briefest period possible, it may be of months, and never, certainly, of years?—I certainly could not possibly say a month; I do not think anybody would say that. I cannot say more than that I definitely regard this as a transitory period.

7560. The only other question that I referred to in my Note is this, Sir Samuel: Take the powers of the present Legislature. According to the scheme of the White Paper, the Government of India Act, having been repealed, provisions in regard to the Budget in the White Paper, are framed differently from those which now subsist in the Government of India Act. To-day, although there is no responsible Government in the Centre, the Central Legislative Assembly has got the right to vote supplies on a large number of subjects. There are many subjects which are non-votable. I am asking whether you propose to reserve these powers to the Legislature and not to take them away in the transitory period?—We should go on with exactly the same powers and procedure in the transitory period as are now in vogue in the Central Government.

7561. Then I may take it, that the impression that I have formed, as many of us have formed on reading Section 202, is not what is really contemplated, namely, that you do not mean in the slightest extent to diminish, either the position of the Indian section of the

Executive Government or the Indian Legislature as it is now constituted?—That is so, except again, in so far as the field of Provincial Autonomy makes a difference.

7562. Of course. You do not contemplate another election on the new franchise proposals, for the reason that by doing so you will be really endangering the coming into existence of the Federation and Federal Constitution?—That is one of my reasons.

Sir A. P. Patro.

7563. May I ask a supplementary question? Will you kindly tell us whether it is the intention of the White Paper that you propose to dissolve the existing Central Legislature when the new Constitution comes into operation in the Provinces?—Not necessarily.

7564. Do you propose to continue the existing Central Legislature, or do you propose to have re-elections after the new Constitution comes into being in the Provinces?—I do not think it necessarily follows that we should dissolve the Central Legislature at once. The time factor comes into consideration and its lifetime also comes into consideration.

7565. They are now under extension?—I know.

Mr. Rangaswami Iyenger.] They are not now; power has been taken to extend them.

Sir A. P. Patro.

7566. Therefore, the question arises whether you would dissolve them along with the new Constitution coming into being or would you allow them to continue and extend them for a further period until the Federal Constitution comes into being?—We might take one or other of the courses; it depends so much upon the time. It might be more convenient to extend their lifetime somewhat further. It might, on the other hand, be more convenient to have an election; I would not like to say now.

Mr. M. R. Jayaker.

7567. There has been no case on record of an extension beyond one year?—I am aware of that fact, yes.

Sir C. P. Ramaswami Aiyar.

7568. May I put a few supplementary questions arising from the replies given to Mr. Iyenger? Let me understand, Secretary of State, the scheme as indicated by you. In the Viceroy's Executive Council at present there is one Member in charge of Education, Health and Lands. The question of continuing the functions and the jurisdiction of that Member will depend upon the setting up of the Provincial Constitution and complete Autonomy, and, therefore, the question of whether such a Member should be continued may arise?—Sir Ramaswami Aiyar will remember that alterations of that kind can be made by the Viceroy. In fact, there are very often changes of that nature made where the grouping of the powers is handed over to a particular Member of the Council.

7569. That is what I wanted to make clear, namely that the alterations that you contemplate being made with regard to the number and functions of the Counsellors will be alterations mainly consequential upon the election of Autonomous Provincial Government?—Yes.

7570. Excepting to that extent, the present functions and powers of the Executive Council will remain, more or less, as they are?—Yes, substantially that is so. There is the one exceptional case that we must keep in mind of the relations of the Viceroy to a Provincial Government, if, in his opinion, the interests of an Indian State are endangered. In that case, obviously, the Viceroy will have to intervene, as Viceroy, rather than as Governor-General-in-Council. It is only a comparatively small exception and it is a kind of exception that might never occur, but I think I had better state it to the Committee.

7571. Would it not be correct to say, that in a transitory period with reference to what you call the relations of the Viceroy with the Indian States, the matters will be kept, more or less, as they are at present, or is there any alteration likely to be made?—Only as regard the Provincial relations to which I have just referred.

L106RO

Sir Hari Singh Gour.

7572. May I ask a few questions dealing with the Central Legislature? Under Section 36 of the Government of India Act, the Members of the Governor-General's Council under the present Constitution are appointed by His Majesty and the number is fixed by His Majesty. Further, three at least of them must be persons who have put in at least ten years' service of the Crown in India. Now under the transitory provisions, I find the following facts are stated of removing the limit to the number of Counsellors whom the Governor-General may appoint. Will the appointment of Counsellors during the transitory period be by the Governor-General and not by His Majesty? Is that so?—No; it will continue to be by His Majesty, exactly as it is now.

7573. Then what is the meaning of removing the limit to the number of Counsellors whom the Governor-General may appoint?—It is for the purpose of supplementing paragraph 202 that I have just made my statement in answer to Mr. Iyenger.

[Dr. Shafa'at Ahmad Khan.] The limit which Sir Hari Singh Gour refers to is the limit of three Counsellors in the White Paper. That limit may be removed by the Government of India.

Mr. Zafrulla Khan.

7574. It is page 40, paragraph 13?—Yes. I would ask members of the Committee and delegates to read paragraph 202, in the light of what I have said, namely, that we wish to keep the transitory arrangements as near as possible to the existing arrangements.

Sir Hari Singh Gour.

7575. Then further: "of placing the administration of all Departments of the Central Government under the Governor-General's exclusive control"?—I have just said that I want my statement taken as an interpretation of paragraph 202, and I have already said in answer to two questions that the Governor-General's Council will continue.

[Mr. Zafrulla Khan.] May I draw Sir Hari Singh Gour's attention to one matter—perhaps, it is owing to that that these questions have arisen. What para-

graph 202 contemplates, so far as I understand, is this : Paragraph 202 is suggesting modifications not in the present Government of India Act, but it visualises the Government of India Act on the basis of the White Paper, and then says inasmuch as the White Paper will say three Counsellors, provision will be made that during the transitory period there will be no provision of that kind, and inasmuch as the White Paper says there will be responsibility at the Centre, the White Paper says it will not operate during the transitory period.

*Sir Hari Singh Gour.*

7576. I am perfectly aware of that, and it is with regard to that, that I am addressing the Secretary of State. Now it was pointed out in the Simon Commission that the constitution of the Governor-General's Council should be that the Governor-General should have control and that he should appoint Members from the Central Legislature. That is one of the recommendations of the Simon Commission. Is that recommendation going to be given effect to, even during the transitory period ?—I have said over and over again since luncheon that it is not our intention to make arrangements of that kind that were intended for a permanent Constitution in the transitory period.

*Sir Hari Singh Gour.*

7577. The last question I wanted to put was with regard to what the Secretary of State has said, that he will make necessary changes to be operative during the transitory period after the Provincial autonomy comes into effect. Would he give the details of the necessary changes which he proposes to make during the transitory period ?—I must be very stupid because I go on saying the same thing, and it does not seem to carry any conviction anywhere. I suppose I must, therefore, say it once again. The only changes I contemplate are such changes as are necessary to make the transitory period conform with the setting up of Provincial autonomy.

7578. I am aware of that, but what are those necessary changes ? That is the point I am making. What are the changes which you consider necessary to conform to the Provincial autonomy

which you propose ?—I should have thought it was obvious to everybody that when you transfer a number of subjects to autonomous Provinces the range of activities of the Centre is diminished to that extent. That is the kind of change I contemplate.

*Sir Tej Bahadur Sapru.*

7579. May I invite your attention to Volume II, page 7, of the Simon Commission Report ?—Will you tell me what the point is ?

7580. There is this sentence there, in the fourth paragraph, towards the end : "As far as possible, therefore, the object now to be aimed at is a reformed constitution which will not necessarily require revision at stipulated intervals, but which provides opportunities for natural development." Do you think that the constitution foreshadowed in the White Paper conforms to this statement in the Report, and do you agree with this opinion at all ?—Yes, I agree with this opinion, and I think that the White Paper certainly conforms with the spirit and with the letter of that sentence.

7581. You will probably admit that there are certain parts of the White Paper which can only be amended at some time or another by an Act of Parliament ?—So I should think ; did the Statutory Commission admit that. There are members of the Statutory Commission here, and I imagine that they must also have assumed that Constitutional Amendment Acts would be inevitable.

7582. Will you kindly turn to the White Paper, Proposal No. 4, on page 38. I will read it out to you for your convenience : "The Federation will be brought into existence by the issue of a Proclamation by His Majesty declaring that on a date to be appointed in the Proclamation the existing nine 'Governors' Provinces,' with Sind and Orissa (which will be constituted as new and separate Governors' Provinces), are to be united in a Federation of India with such Indian States as have acceded or may accede to the Federation" ?—Yes.

7583. In the Introduction you have explained the point of view of His Majesty's Government, which is that

the Federation cannot be started unless 51 per cent. of the Indian States representing one-half of the population and entitled to one-half the number of seats are ready to join the Federation ? —Yes.

7584. From your knowledge as Secretary of State, how long do you think it will take to get the 51 per cent. of the Indian States to come in ? I do not want to bind you down precisely to a date or a year ; but roughly speaking ? —Sir Tej Sapru has so often asked me this question that I wish very much I could give him a more definite answer than I have in the past. I am afraid I cannot. Perhaps, however, I might amplify that statement by one or two more general observations upon the subject. He knows the reasons (he may not think them good ones) why I have not been able to tie myself down to a date. The reasons, in a single sentence, are that there are uncertain factors about which it is impossible to be precise in the matter of dates. One of them Sir Tej has mentioned just now, namely, the time that it is likely to take for the accession of a sufficient number of Princes. The other factor that occurs at once to every member of the Committee and of the Delegation is the uncertain factor of finance. Having made those two preliminary observations, my Lord Chairman, I would venture to draw the attention of the Committee and of the Delegation to paragraphs 12 and 13 of the Introduction to the White Paper. I do not propose to read those two paragraphs. I assume that every member of the Committee and every Indian Delegation has read those two paragraphs. They will find that in those two paragraphs we have set out our general position as to the question of date. Indeed, my Lord Chairman, I think those two paragraphs are so important that I would venture to suggest, without my troubling the Committee by reading them, they might appear at this point on the Notes, namely, paragraphs 12 and 13 :

*“The Date and Conditions for the Inauguration of Federation.”*

12. It will be apparent that the mere passing of the Constitution Act will not of itself suffice to bring the Federation

into being. Apart from the preparatory processes required in British India, which cannot be completed until the Constitution Act is on the Statute Book, and which must inevitably occupy some time—the preparation of new and enlarged electoral rolls for the Provincial and Federal Legislatures, and the demarcation of constituencies are matters in point—the final discussions with the States with regard to their Instruments of Accession and the execution of the latter cannot be undertaken until the Act which will be the basis of the Princes' accession has been passed, for until that time arrives the States will not be in possession of complete knowledge of the character and powers of the Federation to which they are asked to accede. So far as the States are concerned, His Majesty's Government propose as the condition to be satisfied before the Federal Constitution is brought into operation that the Rulers of States representing not less than half the aggregate population of the Indian States and entitled to not less than half the seats to be allotted to the States in the Federal Upper Chamber shall have executed Instruments of Accession. Prerequisites of a financial character to the inauguration of responsible Federal Government are dealt with in paragraph 32. It is the intention of His Majesty's Government that the Federation shall be brought into being by Royal Proclamation, but that the Proclamation shall not be issued until both Houses of Parliament have presented an Address to the Crown, with a prayer for its promulgation. 13. At the same time His Majesty's Government do not contemplate the introduction of the new autonomous constitutions in the Provinces under conditions which will leave Federation as a mere contingency in the future. It is probable that it will be found convenient, or even necessary, that the new Provincial Governments should be brought into being in advance of the changes in the Central Government and the entry of the States. But the coming into being of the autonomous Provinces will only be the first step towards the complete Federation for which the Constitution Act will provide ; and His Majesty's Government have stated that

if causes beyond their control should place obstacles in the way of this programme, they will take steps to review the whole position in consultation with Indian opinion. Provision will accordingly be required in the Constitution Act for the period, however short it may be, by which Provincial autonomy may precede the complete establishment of the Federation. The nature of the transitory arrangements contemplated for this purpose is explained in paragraph 202 of the Proposals."

I think I am right in saying that the chief fear in the minds of some of the delegates and the chief reason which led them to urge so insistently the inclusion of the Federal scheme as a self-contained unit and as a self-contained whole in a single Bill, was that if the proposals of His Majesty's Government were confined to providing self-government for the Provinces there was a danger that they might stop short at that point with no guarantee in a foreseeable future of the introduction of responsible government at the Centre, whether on a Federal basis or otherwise. In answer to this apprehension, I need only refer to the paragraphs of the White Paper to which I have just drawn the attention of the Committee. Those paragraphs reproduce, in substance, the undertaking I gave at the end of the last Round Table Conference. By that undertaking I myself stand, and I hope that the conclusions of this Committee will endorse it. But it is no use ignoring the conditions on which the White Paper scheme is based, or shutting our eyes to the fact that the satisfaction of these conditions depends on fundamental facts which may be beyond our control. It is this that makes it impossible for me to assign a date to the interval between Provincial autonomy and Federation. Having, however, said that, I wish to invite the Committee's attention to some considerations that have a bearing on the question. Whatever other deductions may be drawn from Sir Malcolm Hailey's Memorandum on the facts of the financial situation, it suggests to me, at any rate, that when we have reached a stage at which Provincial autonomy is a financially feasible proposition, we shall have gone a considerable way towards arriving at a situation in which Federation is a

financially feasible proposition. On the other hand—and here I turn to a further question that has been put to me during the afternoon—an exact examination of the process by which Federation can come into operation shows that it is not a physical possibility until the constituents which are to form the Federation are effectively in being. It is clear, therefore, that even if all the conditions were favourable, there must be some interval between Provincial autonomy and Federation; but this does not mean that the Federation which we are seeking to create in India can be left to form itself, and that all that we are called upon to do at the moment is to breathe the breath of autonomous life into existing geographical areas called Provinces. Perhaps I may now put my answer to the question shortly as follows: We have no intention of delaying the inauguration of Provincial autonomy beyond the point at which it is feasible, solely for the purpose of ensuring that the interval between it and Federation is short. On the other hand, we are doing, and will continue to do, all in our power to satisfy the conditions which the White Paper lays down as precedent to Federation. In conclusion, my Lord Chairman, I would once again revert to the financial factor. The members of the Committee and the members of the Delegation will remember that I emphasized the fact the other day that the Provincial problem of finance was, in my view, more difficult to surmount in certain respects than the Federal problem of finance. That seems to show that if the financial situation is such as to enable the Provinces to start upon their autonomous development in satisfactory financial circumstances there ought to be no insurmountable reason upon financial grounds to justify an indefinite delay between the two sides of the Constitution coming into operation. That factor also affects the problem of the States. It seems to me, therefore, that when we consider the financial aspect of any date we must regard the financial problem as a single problem and a problem that in my view will work out in this kind of way: If the financial conditions are such as to justify the institution of Provincial autonomy, then it seems to me they are very much the

same kind of financial considerations that would not necessitate any very great delay in bringing into operation the Federal Centre. Further than that, they are also the kind of financial considerations that I imagine would weigh very strongly with the representatives of the Princes, for in the event that I have just described, namely, the event of the finances being satisfactory, that would be the fulfilment of one of the conditions upon which the Princes have always insisted, namely, that the Federation must be upon sound financial lines. My Lord Chairman, I feel I have given a rather long answer, but the question put to me by Sir Tej Sapru is a very important question, and I felt I could only deal with it in some detail.

7585. Thank you. May I just ask you one or two questions arising out of this answer. I believe a Reserve Bank Committee has been sitting?—Yes.

7586. When do you expect that its report will be ready?—I wonder what any member of the Reserve Bank Committee would say.

*Mr. Rangaswami Iyenger.*

7587. So far as we are concerned, I think we have made very good progress so far. Many essential points have been discussed and there are points that remain for some decision, but we are making good progress. That is all I can say?—What we are trying to do is to have it ready for the finance discussion next week, and if I might I would impress upon the members of the Committee the extreme urgency of getting the report ready, if possible, by then.

*Sir Tej Bahadur Sapru.*

7588. Can we reasonably expect that the Reserve Bank will be established in a year or two?—Here again we are dealing with uncertain factors, and with the best will in the world it is almost impossible for me to give a definite answer to a question of that kind. We are dealing, first of all, with the question of legislation in the Indian Assembly. It has always been contemplated that the Reserve Bank Bill would be passed by the Indian Assembly.

7589. Yes?—When they will pass it, Indian Delegates can say better than I can. Secondly, there is the uncertain factor of the financial position. Sir Tej will remember the discussions we have had about the Reserve Bank; the fact that we have all admitted that reserves have got to be accumulated; that conditions have got to be such as to make it possible for the Reserve Bank to function satisfactorily. There again we are dealing with uncertain factors.

*Mr. Rangaswami Iyenger.*

7590. I think it is necessary for me to mention that the discussions in which the Sub-Committee have been engaged have proceeded on the footing not merely that this Reserve Bank Bill is to be passed by the Indian Legislature, but that the Reserve Bank should come into operation as a result of the activities of the existing Governor-General in Council; that is say, that it should be brought into existence before the Act which will constitute the new Government is passed?—We want to bring it into operation as soon as we can.

*Sir Tej Bahadur Sapru.*

7591. May I invite your attention to paragraph 32 of the White Paper Introduction, page 17?—Yes.

7592. The first question that I should like to put to you is as to the meaning of this expression “already successfully operating” in the first sentence. What will be the test that will be applied to the question as to whether the Bank has been successfully operating, and who will be the judge of that?—I do not in the least wish to defer an answer to Sir Tej’s question, but I would have thought it was very much better to leave a question of this kind until we have the report of the Reserve Bank Committee, and until we are primarily considering questions of finance.

7593. Then I will not trouble you further. If you look at the same paragraph you will find towards the end of it there is this sentence; “The Report of the Committee of the third Round Table Conference on Financial Safeguards mentions the following as conditions to



be fulfilled—“that the Indian Budgetary position should be assured, that the existing short-term debt both in London and in India should be substantially reduced, that adequate reserves should have been accumulated, and that India’s normal export surplus should have been restored’.” You have, to a great extent, dealt with this matter in the very comprehensive answer which you were pleased to give just now, but I should like to know from you when you expect (reasonably again) these conditions to be fulfilled from your knowledge, and the advantage that you have of expert advice?—I am afraid, Sir Tej will think me terribly unresponsive. It is not that I wish not to give him an answer. It is really that I cannot give him an answer. It is impossible, dealing with uncertain factors of this kind, to say when conditions will or will not be satisfactorily satisfied. Again I can tell him that we shall do our utmost here, as we have done during the last 12 months in removing every removable obstacles.

7594. If you kindly proceed with the next part of paragraph 32 there you say: “If a situation should arise in which all other requirements for the inauguration of the Federation having been satisfied, it had so far proved impossible successfully to start the Reserve Bank, or if financial, economic or political conditions were such as to render it impracticable to start the new Federal and provincial Governments, on a stable basis, it would, inevitably, be necessary to reconsider the position and determine in the light of the then circumstances what course should be pursued.” How long do you think we shall have to wait until that stage is reached when you may consider it necessary to take Indian opinion further into consultation?—I have never myself contemplated a long or indefinite time. I have always thought myself (though here I do not wish to be held to be making a carefully considered pronouncement) that the time to make the final financial enquiry into the position both at the Centre and in the Provinces was at some time either when the Bill was being considered by Parliament, or immediately after the Bill has reached the Statute Book, and I have always had in mind that, if the report was then such as to make it clear

that the autonomous Provinces and the Federal Government could not be started for a long or an indefinite period that was the occasion at which we would call our Indian friends into further consultation.

7595. Will you turn to Proposal 18, page 41? Would you kindly explain what exactly is meant by Clause (b), which is “the safeguarding of the financial stability and credit of the Federation”?—This surely must be a question for the financial discussion next week, must it not, and I thought this was going to be one of the kind of questions with which we should very much be dealing next week.

7596. If I am not here Mr. Jayaker will probably put to you that question?—Yes.

Sir Tej Bahadur Sapru.] Then I will pass on to another subject. In the course of your statement you said the other day, explaining the relations of the two Houses—

Marquess of Salisbury.] Are you passing from the financial point?

Sir Tej Bahadur Sapru.] I am leaving that, and I am coming to another aspect of the question

Marquess of Salisbury.

7597. May I then put this question, if I am allowed to, to the Secretary of State? We have listened with the greatest interest to his very carefully stated views, but he will, I am sure, himself recognise that those are the views of His Majesty’s Government, and not necessarily the views of the Committee?—I have never for a moment pretended to express the noble Lord’s views.

7598. I meant it quite respectfully. I only wanted to prevent a misunderstanding?—I should have thought no misunderstanding could arise.

Lord Rankeillour.] I thought we were having a discussion first solely on the transitory provision and you were going to have a round of questions on that, but you are going apparently to much wider matters.

Chairman.] I was waiting to see what Sir Tej was going to broach before I reminded him of the same fact. Sir Tej will have on mind that by arrangement

to-day we deal only with transitory provisions, and if Sir Tej is going to leave that matter I propose to have a round of questions. If I understand Sir Tej's intentions aright, he should leave these matters till a later stage.

Sir Tej Bahadur Sapru.] I have one question to put about Proposal 202.

Mr. Rangaswami Iyenger.

7599. I have a supplementary question arising out of the answer to Sir Tej. As I understood you, Sir Samuel Hoare, when you said that in regard to the calling into conference of representative Indian opinion when, all other conditions having been satisfied, financial difficulties are in the way, I take it what is meant is that, so far as you are concerned, the proposals in regard to the Federation Act will go forward in the definite expectation that these conditions will be satisfied, and that when the Federation Act is put on the Statute Book the question whether it could not come into operation owing to financial or other causes would then arise for discussion, and, if it does arise, then you would call a conference of Indian opinion?—I would prefer to leave my answer as I stated it. I think I made the position clear. I am contemplating (that is supposing the Joint Select Committee and Parliament agree) going ahead with a comprehensive Bill covering the whole field of Indian Government. If in the respect that I have just described there appears to be a likelihood of indefinite delay, then I gave last winter, and I repeat it now, on behalf of the Government, a statement that we would in those circumstances take into consultation once again our Indian friends.

Sir Tej Bahadur Sapru.

7600. Coming to Proposal 202, may I put to you questions in a very general form: Is not the scheme of your White Paper this, that the Bill will be divided into two parts, say, Part I dealing with the Centre, or the Federation, and Part II dealing with the Provinces; that Part II will be enforced first, and that Part I will remain in suspense until the necessary conditions are fulfilled for enforcing it. Is not that the whole scheme?

—It is not a complete picture of the scheme? Sir Tej will see that all parts of the Bill will be dependent upon certain conditions. For instance, the financial considerations to which I have drawn attention. Subject to that his description appears to me to be an accurate description of the kind of proposals, that if one is still in office, and if the Committee agrees, and so on, we should make to Parliament.

7601. During the period between the passing of the Act and the setting up of provincial autonomy, and the date when you may consider it necessary or desirable to establish Federation under the Constitution passed by Parliament, I suppose your idea is that the present form of Government of India should remain with as little changes as may be possible?—Yes.

7602. That is your general idea?—That is my general idea.

7603. With regard to the Legislature which will be in existence during this period, will you have the official *bloc* at all in the Legislature, or the same strength of the official *bloc*?—We should go on exactly the same in the transitory period; that is my idea.

7604. In the transitory period?—Yes.

7605. The changes being only confined to readjustment of the relations of the Government of India to the Provinces which have become autonomous?—Yes.

7606. That would necessarily imply that in regard to matters of law and order, or in regard to financial control, the control of the Governor-General and the Secretary of State will, to that extent disappear?—To that extent it will be altered. I should not like to use offhand the word "disappear."

7607. If the Provinces become autonomous?—Yes.

7608. Within the limits of the Constitution, the Secretary of State and the Governor-General will not have any power of interference with the Constitution?—Within the sphere of the Autonomous Provinces, subject, of course, to the field of special responsibilities.

7609. And to that extent necessarily the Constitution of the Executive Government of India will change?—To that extent.

7610. Take, for instance, the Member in charge of Education and Revenue Education and Revenue becoming Provincial subjects, there will be practically nothing to do for the Member in charge of Education and Land Revenue?—I think it is quite clear that in the transitory period there will have to be a re-grouping of the Viceroy's Members of the Council.

7611. Take the period with which I am dealing now. During this period, will you insist upon the Local Legislatures of the Autonomous Provinces asking for the previous assent of the Governor-General in regard to some kind of Legislation for which it is necessary now?—No, only so far as is provided in the White Paper, namely, in the Autonomous field of the Provinces we should not contemplate its being exercised. (Sir *Findlater Stewart*.) In so far as this White Paper would demand previous sanction if the Federation were in being, it will require previous sanction of the Governor-General in the interim period, but no more than that.

7612-3. How will that affect the question of concurrent powers?—I am talking only of the transitory period during which Provincial Autonomy has come into existence, but the Centre has not been changed into a Federation. That may give rise to very serious Legislative conflict?—I have no doubt we shall have to look into that. The thing will have to be adjusted on the basis that the Secretary of State has explained. The changes are only to be the minimum changes consistent with the setting up of Provincial Autonomies.

7614. May I say that I am not suggesting that the thing is impossible. Readjustments will have to be made, but I am afraid the White Paper does not go into those questions?—(Sir *Samuel Hoare*.) No, and I admit, quite frankly, that the White Paper does not go into those details, but it is not that we have ignored them. We see that there will have to be readjustments both within the Viceroy's Council of duties, and there will also have to be adjustments of the Legislative competence.

7615. The readjustments will comprise three fields as I can foresee, legislative, administrative and financial?—Yes.

Marquess of *Reading*.

7616. I almost apologise for the only question I have to put: It is not because of the want of lucidity of your answers, but because I have not always followed the questions that have been put to you. Am I right in this? I am only trying to put the substance of what I understand to be your statement, whatever the question. The transitory provisions are only applicable—those in paragraph 202, during the time that the Constitution as a whole comes into being. Those transitory provisions are merely for the purpose of carrying on during the time before the Constitution as a whole comes into being. That is right, is it not?—Yes, that is so.

7617. The only other question I want to put—I am only trying to see that, at any rate, I have got the answer to some of those questions clear, is this. What you are saying quite generally—not attempting to do more than summarise generally—is that it will be necessary to make some adjustments for the purpose of carrying into effect Provincial Autonomy—some adjustments in the Central Government?—Yes.

7618. Whatever those are, they are not dealt with in detail in the White Paper, but they are left to be dealt with as and when the case arises, and when you have got Provincial Autonomy in operation and pending the time that the whole Constitution comes into being. Is that not right?—To this extent: It is quite correct, so far as the White Paper goes, but I think it will be found that in the Constitution Act we must deal with them in greater detail.

Lord *Rankeillour*.

7619. I will not trouble you very much Secretary of State, in a great number of Acts of Parliament there are two dates, are there not, there is the date of passing and the date of commencement?—Yes.

7620. And very often there is a different date of commencement for different parts of the Act?—Yes.

7621. With regard to Provincial Autonomy itself, will you put in a date of commencement for that?—No; I should

not put in a date, neither for one nor the other.

7622. You would put in a date for the operation of Provincial Autonomy?—No; I was assuming that no date would be put in, for very much the same reasons that I said that no date could be put in for the Federation, namely, these uncertain factors, particularly the uncertain factor of Finance.

7623. But then, obviously, it cannot come to pass on the date of passing immediately. You will have to reserve some powers by Proclamation, or otherwise, for it to come about?—Exactly. I should reserve power either by Proclamation or by Order in Council.

7624. Would the Proclamation for that be subject to any Parliamentary review?—I have contemplated the Proclamation for the Federation.

7625. But you now say it is uncertain when the first stage will actually take effect, the granting of Provincial Autonomy. Will you take some power, for instance, to call the Chambers together at a certain time to prepare the Rolls, and so on?—Yes, certainly, some power must be taken. Exactly what that power is, I have not formed a final opinion upon.

7626. But there will have to be something of the sort in the Act?—Certainly.

7627. And that, especially in view of the fact that the Provincial control, Provincially as well as Federally, is uncertain?—From the point of view that I have just stated, yes.

7628. May I ask you this: From the moment that Provincial Autonomy is set up, will the division of the powers in Appendix VI automatically come about?—Yes.

7629. And from that moment, the Federal Government, which will *ex hypothesi* still be in its present state, will have those powers and no more, and the Provinces will have the other powers therein set out?—Substantially so, yes.

7630. And if there is anything that has been omitted, who will have the residual powers?—The position will be as stated in the Appendices.

7631. It does not quite clearly state what will be the residual powers, but,

for the time being, will the Central Government have them?—It will be presumably for the Governor-General to decide whether it should be the Centre or whether it should be the Provinces which should legislate.

Lord Eustace Percy.

7632. I would just like to ask one question, Secretary of State. Most of the questions put to you have been on the assumption that the date between the passing of the Act and the establishment of Provincial Autonomy will be quite short, but the interval between that and the establishment of the Federation may be rather long. Is it not the fact that so far as Finance is concerned, if there is any delay at all, the delay between the passing of the Act and the establishment of Provincial Autonomy is likely to be much longer than the interval between the establishment of Provincial Autonomy and the Federation?—I say, so far as the financial factor is concerned?—It was with that point that I attempted to deal at the end of my statement, namely, to emphasise the fact that I emphasised the other day, that the financial problem is as great a problem, if not a greater problem, for the Provinces than it is for the Federal Centre.

Marquess of Salisbury.

7633. I should just like to clear up a little point about this bringing into operation of the White Paper scheme by proclamation. We are all well aware that at the top of page 9 of the White Paper it is provided, or rather it is the intention of the Government, that Federation should be brought into being by Royal Proclamation at a certain point, but in the White Paper I do not think there is any corresponding provision in the case of Provincial autonomy. May I take it, that when the White Paper was drafted, it was not anticipated that there would be delay in bringing out Provincial autonomy—that that has emerged since?—No; we have always had these difficulties in mind.

7634. Then why is there no provision for it?—We had held the view that Parliament would certainly require—so we thought—a very formal and ceremonial

procedure, like a proclamation, for the bringing into being of the Federation. We were not equally clear that that procedure would be necessitated for the bringing into operation of the Provinces. That seems to me to be essentially a question for discussion. The alternative would be some other expedient; namely, an Order in Council, or something of that kind.

Marquess of *Salisbury*.] I have no other questions to put.

Lord *Hutchison of Montrose*.

7635. With regard to the foundation of the Federation when the Princes come in to the Federation, have you at the present moment in your mind, or is it laid down in writing anywhere, the conditions which the Government think ought to be fulfilled in relation to the subjects which are to be handed over to the Federation by the Princes?—Yes; we have had a good many discussions on the subject, both at the Round Table Conferences and in the discussions that have taken place in India.

7636. In relation to that, has there been any touch with the Princes on the financial side?—I am not quite clear what Lord *Hutchison* means by that.

7637. To what extent the Federal Government will have power, other than the ordinary Customs duties, in relation to contributions to the Federal Government by the Princes?—We have had almost continuous discussions with the Princes upon that subject.

Sir *Phiroze Sethna*.

7638. Just one question. Secretary of State, what is proposed in regard to your Council here during the transitory period? Is there to be any change or is it to be just the same?—Exactly as it is now.

7639. If there are any vacancies during the transitory period, do you propose to fill them up?—The Secretary of State would have to use his discretion. I think that would depend very much upon whether it looked as if the period was going to be a long one. I can quite imagine if the period looked to be a short one he certainly would not fill up an appointment.

Sir *Abdur Rahim*.

7640. I wish to put one question. I think, Secretary of State, you have made it quite clear to us that the transitory period will last so long as provincial autonomy does not become financially possible? Is that not so?—No, not at all.

7641. That is to say, the Act will not come into operation?—That is another proposition altogether, though, is it not? There would be no transitory period at all if the Act did not come into operation.

7642. The Act would not come into operation until provincial autonomy becomes financially possible. Is that not so?—Yes, I think that is so.

7643. And that, I take it, mainly depends upon world economic conditions?—Yes, to some extent. I hoped I had dealt with that the other day when I made my comments upon Sir *Malcolm Hailey's* Paper.

7644. But I mean is that not really the general position, that it will largely depend upon improvement in the world economic conditions?—I would rather not use adverbs or adjectives. I would certainly say that this is a very material factor in the problem.

Mr. *M. R. Jayaker*.

7645. May I put one question? I am speaking about those subjects, Sir *Samuel*, which are at present reserved in the Provinces, such as Law and Order, and which will be transferred to popular control under provincial autonomy. What will happen to those subjects at the Centre? Will the portfolios of Law and Order at the Centre cease to exist, or will they be converted into co-ordinating machinery? What is within your contemplation? Have I made my question clear?—Yes.

Sir *Austen Chamberlain*.] May I ask, does the question refer to the transitory period?

Mr. *M. R. Jayaker*.

7646. I am speaking of the transitory period, yes?—It would mean a readjustment of the portfolios, and in actual practice, if a portfolio of that kind continued, it would be substantially

modified as a result of the transfer of Law and Order in the Provinces.

7647. But it is likely that its only function will be to co-ordinate Law and Order in the several provinces ?—I would not like to say yes to a question of that kind offhand. There may be other duties. I think I would prefer to consider the picture in rather more detail before I give a general answer to it.

7648. But you will have to make the position at the Centre with reference to these provinces in strict conformity with provincial autonomy ?—Yes.

*Mr. Zafrulla Khan.*

7649. Just one question, or rather a suggestion which I wish to make to the Secretary of State arising out of the financial position referred to. I do not suppose there can be any doubt that with regard to this part of the question some help may also be derived from a readjustment of the financial expenditure into which some of the provinces are looking ; for instance, in the scales of salaries for new entrants to the provincial services and other things. If relief came in that way, that would no doubt also be taken into account ?—Yes ; and I should like any answers I have given on the subject of finance to-day to be interpreted in the light of the statement I made in my comment upon Sir Malcolm Hailey's Paper. I made it clear in that statement that I thought there still are fields of economy to be worked upon in the provinces.

*Sir P. Pattani.*

7650. I want to put a question or two to the Secretary of State. As I understand from the answers given here, there are four main points on which hinges the fate of the future Federation ; namely, the establishment of a Reserve Bank ; the solution of the financial difficulty ; the accession of the States, and, lastly, the facility for the provincial legislatures to elect members for the central legislature. Supposing that the first two, namely, the Reserve Bank is satisfactorily settled and the financial question is also satisfactorily settled, then I take it that it will be only the question

of the accession of the Princes that will be in the way. If it takes a year, and it is expected that it will not take more than that, then the Federation will be delayed only for that period which would require transitory provisions. One can quite understand the transitory provisions from that point of view, because it would be a long period during which administration will have to be re-shaped at the Centre. But the fourth point, namely, the capacity of the provincial legislatures to elect members to the Legislature need not delay federation being established at the Centre, because as soon as the provincial legislatures are elected and come into being they can go straight on towards electing members for the Central Legislature ; and during the time of the election the Centre may go on functioning as it does at present on the analogy of a Ministry of a dissolved House of Commons functioning until the new Parliament comes into being. Is that the right view to take. Sir Samuel ? —I think, generally, it is. It is very difficult for me to say yes or no explicitly to a rather long statement, but I do not think there is any disagreement as far as I can judge, following what Sir Prabashankar Pattani said, between him and me.

7651. In that event, supposing that there is a transitory period intervening between the grant of Provincial Autonomy and the establishment of the Central responsible Government, would it be possible, in view of the financial difficulty, the accession difficulty and the Reserve Bank difficulty, to have the Provincial Legislatures after Autonomy is established to elect Members for the Central Legislature who will form the Central Legislature as is described in the White Paper, who will function as the Governor-General's Council, as the Assembly functions at present, shorn of the power of Central responsibility granted to them ?—Sir Prabashankar Pattani is making an alternative proposal to ours, and a proposal that I do not think is as good as ours. His proposal is to make a very material change in the Central Government in the transitory period. Ours is that it would be a mistake to make changes of that kind, and I hope I have made these reasons clear this afternoon.

7652. I want to make this one thing clear, that there is to be no Central responsibility in spite of the Provincial Councils electing Members to the Centre under the new scheme, and the Governor-General will go on functioning, as he does at present. But the advantage of my humble suggestion is that India will realise that there is a real desire to find a solution which is not left to be decided upon after the transitory period is over, but a scheme set down from now which they will hope will come into being as soon as certain conditions are fulfilled. It is from this point of view that I am making this humble suggestion. And there is another reason why I make it. Supposing we on problematical points pass an Act in the House of Parliament granting Autonomy in the Provinces but leaving the future Central responsibility dependent upon certain conditions, and, supposing those conditions come into being after four or five years, it may be very dangerous to find then conditions to which a Constitution that we may set up may fit in. Therefore, I very humbly suggest that it would be very dangerous to set up a Constitution from now which has to come into functional attitude after several years when conditions both here and in India may change. It is only from these two points of view that I am making this humble suggestion. Make a start which may give a great hope to India that there is really a way opened out as soon as certain difficulties that are in the way are cleared up. Beyond that, I have nothing to say?—Sir Prabashankar Pattani has expressed one point of view. The Committee, however, ought to remember the other point of view, that so far as my information goes, it is held by a large number of Indians, namely, the more permanent you make the transitory period appear, the more likely it is to become a permanent and not a transitory period.

7653. Then one other point I should like to know is this : There is a fear in which I do not share, that if the Autonomy precedes Central responsibility, it may happen that the Autonomous Provinces may refuse to come into the Federation when their opinion is asked after several years?—I really do not know what Sir Prabashankar means by that. The Provinces will not be asked whether

they are coming in or not. The Provinces will have to come into the Federation under the Constitution Act.

7654. It is from that point of view that I was going to suggest that I hope it may be possible to set down in the scheme that no Provinces will have the option of refusing to come in as soon as the conditions for Federation are established?—We have never at any period of any Round Table Conference, as far as I can recollect or in any Committee ever contemplated such an option.

Sir P. Pattani.] I was only suggesting that although the fear is one which I do not share, there does exist a fear, and it would be well, therefore, to have a provision in the Constitution itself that after Autonomy in the Provinces is established, no Province shall be at liberty to refuse to come in directly other conditions are fulfilled.

Mr. Zafrulla Khan.] How can the Provinces refuse either constitutionally or legally or in any other way whatever? The Act will be enforced.

Sir P. Pattani.] If it is an Act, yes. Then there is one small point with regard to the Accession of the Indian Princes. The reference is paragraph 12 of the Introduction, the last four lines : "the condition to be satisfied before the Federal Constitution is brought into operation that the Rulers of States representing not less than half the aggregate population of the Indian States and entitled to not less than half the seats to be allotted to the States in the Federal Upper Chamber"—I should like to know what the meaning of the word "seats" is? Does it mean half the number of the Sovereign States, or does it mean half the number of the votes in the Legislature? I ask this question, because if "seats" means the number of votes, with the principle of multiple votes, plurality of votes, fewer States might take a part in the number of seats and the majority of the Sovereign States may remain outside. Therefore, I would request if it is not possible to say half the number of seats and half the number of Sovereign States.

Sir Mirza Ismail.] That would not be at all acceptable.

Sir P. Pattani.] I want to make it quite clear.

Witness.] "Seats" means votes.

7655. Will that not bring about this difficulty, that fewer States might make up more than half the number of votes, whereas the greater number of Sovereign States may have to remain outside. That is why I say it should be the number rather than the plurality of votes?—It is impossible really to give an answer to a question of that kind until we know what is to be the voting strength of the States.

7656. Exactly; I quite agree there; but considering that the view has been expressed that the votes may depend upon the number of gun salutes, I think it may be possible that the question of guns brings in the element of patronage and guns were settled in the olden days when the British Government was really collecting strength from States which came into alliance, and States which came in later got a lesser number of guns in spite of their importance being historically greater than those which came in first. It is from that aspect that I suggest it should be carefully considered, that guns alone should not be the criterion?—Nobody has ever suggested that guns alone should be the criterion.

Sir *Mamubhai N. Mehta*.] The Secretary of State said this morning that the transitory period will depend upon two factors: the solution of the financial difficulties and, secondly, the Accession of the States. As regards the financial problem, we shall take it up very likely on Thursday when we take up the whole financial position, and on behalf of the States a statement will be made, I hope, that day about the financial arrangements. As regards the Accession of the States, I will pursue the point taken by Sir Prabashankar Pattani. The present arrangement is as provided by Section 4 of the White Paper and paragraph 12 of the Introduction, that a Federation will be considered to have been set up if 51 per cent. of the population and 51 per cent. of the seats—that is votes—assigned to them in the Upper Chamber accede to the proposed Federation. I want to draw the Secretary of State's attention to this fact that the 51 per cent. of seats provision adds uncertainty to our view at present. We do not know what will be the allocation of seats, so it is difficult for us at present to say when

this 51 per cent. of the seats allocated will be filled up. That is one consideration. Secondly, I want to invite the attention of the Secretary of State to the fact that some States may be in a state of minority and according to the proposed arrangements, minor States or States under minority administration will be disqualified from coming into the Federation. At a time it is not difficult to imagine that many or several States may be in a condition of minority or under minority administration. I would remind the Secretary of State that about four years ago important States like Gwalior, Travancore, Jaypur, Bhavnagar and Cooh Behar—states with large populations and possibly with a large number of seats—were under minority administration. Even now about 25 States are under minority administration, and if they are disqualified we do not know at any particular time what States would be disqualified, and therefore it is another factor of uncertainty. In this connection I would remind the Committee, as well as the Secretary of State, of a discussion that took place at the Second Session of the Round Table Conference, on the 23rd of September, 1931—the proceedings of the Second Federal Structure Sub-Committee. The Secretary of State, Sir Samuel Hoare, then said: "When I say an effective All-India Federation I mean a Federation that is based, first of all, upon a definitely Federal foundation and I mean, secondly, a Federation with definitely Federal organs to carry out its duties. I do not now wish to go into details upon these two main conditions. During the course of our discussions we shall have ample opportunity of discussing the details that arise in connection with them. To-day I would only say in a sentence, taking up in particular the point of view expressed by the Princes this morning, that I do regard as one of the conditions of an effective All-India Federation a sufficient participation of the Princes. Here and now I do not want to be drawn into a controversy about numbers. I would much rather hear the views of gentlemen around the table upon that very important point, but I should like to make it clear that, so far as my own views are concerned, I do really regard an effective participation of the Princes



at a reasonably early date as one of the basic conditions of the constitution that we are discussing. If I might make nothing more than an *obiter dictum* to-day I would venture to say that it seems to me personally that the 51 per cent. of the population, the test suggested by Sir Akbar Hydari, is not a very full representation of the Princes. I do not wish to say any more than that to-day."

[Lord Hardinge of Penshurst.] Who said that ?

[Sir Manubhai N. Mehta.] Sir Samuel Hoare.

[Witness.] A very good speech. I agree entirely with it, and it is because of that that I put in the provision about seats.

7657. The same uncertainty remains. We do not know what will be the allocation of the seats, and I added the second uncertainty about the minority administrations. The minority administrations must be free to come into Federation if it is to their advantage as we all believe it will be to their advantage to come into the Federation, and trustees for the benefit of the minority administration ought to be free to come into the Federation ?—Is this a question ?

7658. This morning we departed from questions. I will ask it in question form. Would you believe it to be more in the interests of minority administration that they should be free to come into the Federation ?—Sir Manubhai has raised an important question and a question that we have very fully considered. We have been advised that there can be no question of bringing a minority State, as such, into the Federation. It would be quite contrary to all the constitutional law and usage that has grown up in our relations with minority States and, although we sympathise very much with the point of view that he has just expressed, we have found that constitutionally it is quite impossible. That being so, I have always thought myself that we might get round the difficulty, assuming there is some weightage given to the Princes before the whole hundred per cent. come into the Federation, by using a portion of that weightage for representing the minority States, and I think Sir Manubhai Mehta will find that constitutionally that is the only way to do it.

7659. I would only point out one more difficulty. Would the Secretary of State realize the fact that as he said the other day, in the case of future accessions, the conditions of accession may have to be fixed, not only by the paramount power of the Crown, but also by an existing Federal Government ? Suppose those conditions are likely to be a little more onerous than they are to-day, then would not the minority administrations have reason to grumble that they had lost the opportunity of entering at a time when easier conditions would have been offered to them ?—I am afraid there is no constitutional way round this difficulty other than that that I have just explained. We have made many inquiries as to the views of the Princes themselves in India, and we find that, anyhow amongst certain of them, there would be very grave objection to our taking such action on behalf of a minority State.

[Sir Austen Chamberlain.]

7660. May I interpose a question ? Could the Secretary of State consider an alternative which has not yet been mentioned, namely, that in the case of a State which was in minority at the time of the coming into force of the Constitution its rights should be reserved to enter on the basis then in force until the Ruler came to his majority, and for such time after as was necessary to give him time to consider ?—Sir Austen Chamberlain seems to have made a very valuable suggestion. I think we ought to take it into account.

[Sir Manubhai N. Mehta.] It is a valuable suggestion.

[Sir P. Pattani.] As one who has run a minority administration for 13 years I am bound to say I am against the proposal of minor estates being forced into Federation until the minor has come of age.

[Sir Manubhai N. Mehta.] Now that the Secretary of State has offered this concession that, as regards the weightage to be given, this fact of minority administration will also be taken into consideration, I will reserve questions until we come to Federation.

[Mr. Y. Thombare.]

7661. There are at present certain agreements between States and Provin-

cial Governments, and it may be that a portion of the period covered by them may be unexpired on the date on which the Provinces may be started on autonomy. What would be the position as regards those agreements? Will the Provincial Governments be in the position of agents of the Central Government in that respect or will that be taken into consideration?—Our intention would be to make arrangements of the kind run on.

7662. Will the Provincial Governments be looked upon during the transitory period as agents of the Central Government with regard to the execution of agreements?—I think, as a matter of fact, it would be the Governor and the Governor-General who would protect those interests, but anyhow we would see that those interests were protected.

[Sir Akbar Hydari.] I presume that we are now discussing only that particular paragraph 202 of the White Paper?

Chairman.] Yes.

Sir Akbar Hydari.] I have no questions to ask on that. My question will relate to the part when we are dealing with Federation because I have not had an opportunity of asking questions under that heading. Is not that so?

Chairman.] That is so.

Sir Akbar Hydari.] Also one other question as stated by Sir Manubhai with regard to transitory provisions. The financial aspect was one of the considerations which was given by the Secretary of State as possibly delaying Provincial autonomy. With regard to that you will remember that we promised on behalf of the States some declaration as to what our position was when we discussed Sir Malcolm Hailey's Memorandum, and I was asked to state what that position was. I will make that declaration when we take up the financial discussion.

Mr. N. M. Joshi.] May I ask a question of Sir Samuel Hoare about the representation of labour in the Upper Chambers?

Mr. Zafrulla Khan.] Is that on franchise or on federation?

Mr. N. M. Joshi.] I am not going into the details of the franchise.

Mr. Zafrulla Khan.] I am not objecting to anything Mr. Joshi said. I want

to know whether we are on the first part of our two subjects, or on the second?

Chairman.] We are now reverting to No. 2 on our order, Federation.

Mr. N. M. Joshi.] In view of the fact that the franchise question is not likely to come up at all during this Session, may I be permitted to ask one or two questions, not on the details at all, but of constitutional importance about federation?

Chairman.] I think on the whole that it would be well if the Committee and Delegates allowed themselves the liberty of dealing with the Constitutional aspect of the composition of the Houses during this examination. I think there are several members who have not had an adequate opportunity of putting questions on that. I should hope, however, that the Committee and Delegates would agree to avoid the more detailed question of franchise, because it is clear that we cannot altogether conclude these matters. Mr. Joshi no doubt will see that he does not allow himself to slip into the interesting and complicated matter of the franchise in detail.

Mr. N. M. Joshi.

7663. My question is this : Are you not providing for any special representation for labour in the Upper Chambers either Federal or Provincial? You have provided for special representation of those interests which are not likely to secure representation in the Upper Chamber by the method of election through the Provincial representatives. I want to draw your attention to the fact that labour is not likely to secure representation in the Upper Chamber through special Labour representatives in the Provincial Chambers. You will see that in no province there are sufficient special Labour seats which will enable them to secure even one seat in the Upper Chamber. Last time when questions were asked on this point it was suggested that the depressed class seats may be of some use in this respect. As regards that point I want to draw your attention to this fact that the depressed class representatives will have to belong to the depressed classes themselves and, considering that fact, I want to ask you whether you are aware that under the present circum-

stances for some years to come there will be very few members of the depressed classes who will be able to represent Labour interests in the Upper Chamber. I may draw your attention to this fact that, excepting our colleague, Dr. Ambedkar, I know of no other man belonging to the depressed classes who can defend Labour interests in the Upper Chamber as against the able representatives of the industrial and commercial interests. I want your views on this point, Sir Samuel Hoare?—Would Mr. Joshi put it in the form of a question? It is so difficult, if somebody makes a long speech, for me to know what to say.

7664. My question is this : Is it your information that among the depressed classes there are a sufficient number of people who will have the ability to defend special labour interests in the Upper Chamber if we depend upon the depressed class representatives to defend the Labour interests?—Supposing there were not a sufficient number of suitable depressed class candidates, the depressed classes could elect somebody else if they wished from the Provincial Councils.

7665. The depressed classes will naturally want to have their own men?—Yes, but Mr. Joshi's argument was that they could not produce anybody who was capable of representing Labour interests. They can elect anybody they like.

7666. The depressed classes, in the first place, would like to have their own men. They are elected by a depressed class constituency, and on account of the fact that they are elected by a depressed class constituency they will naturally prefer to have a depressed class man. If Sir Samuel is not willing to reply to that question?—I do protest against that observation. I am willing to reply to every question that is asked me. Mr. Joshi will see, when he reads the shorthand notes of what he has been saying, that he has not got near asking me a question of any kind. If he will ask me a question I will answer it.

7667. My question was : How do you expect the depressed class representatives to elect men who will represent Labour interests? That is my question?—I would have thought (I speak subject to correction) that the depressed classes were essentially of the labouring class,

and they were very likely to elect somebody of the type contemplated.

Mr. N. M. Joshi.] Will the depressed classes not like, when they are asked to elect members, to elect members from their own class?

Mr. Zafrulla Khan.] Will those members who are elected from among the depressed classes be able to defend the depressed classes interests in the Upper Chamber?

Mr. N. M. Joshi.] That is not my business.

Mr. Zafrulla Khan.] What is your expectation?

Mr. N. M. Joshi.

7668. If you ask me that question I shall say that many of them will not be able to do it, but at the same time, that is not my business. My question to the Secretary of State is that as far as his knowledge of the present intellectual position of the Depressed Classes goes, does he expect the Depressed Classes representative to be of any use for the working classes in the Upper Chamber?—My answer would be yes; I do expect that it will be of use to them; but I think it would probably be better if Mr. Joshi would put that question to Dr. Ambedkar.

7669. May I ask a second question on that point? Will the Secretary of State explain why when he gives a special kind of election to Europeans, Anglo-Indians and Christians, he is not prepared to make the same concession to Labour?—We have never regarded Labour as a community within the meaning of the word "community" in India.

7670. May I ask you then to explain why you consider it to be absolutely necessary that there should be representation of communities and not of interests?—This is a very wide question. Lord Lothian's Committee took the view that interests should be represented in the Lower Chamber, but not in the Upper Chamber. I have accepted that view.

7671. But what were the reasons for that view?—If Mr. Joshi will look at Lord Lothian's Committee's Report, he will find the reasons set out at length.

7672. I have not yet seen any reasons there ; that is why I am asking you, Sir Samuel Hoare. May I ask only one question as regards the Franchise, and that question is about wage earning as a qualification. It was suggested that it was difficult to find out what the actual wage of a man is. If I tell you that there are certain classes of people whose wages it is not difficult to find, will you include wage earning as a qualification for that class ? The classes, in my view, are those workers who work in what are called organised industries ?—No. I am afraid we came to the view that we did not regard it as a practicable proposition. Sir John Kerr yesterday gave very conclusive reasons against taking wage earning as a qualification in the country. He did admit that it might be more possible to apply the test in the towns ; but whether that be so or not, we do not think that we could isolate the two sides of the problem, and we do not think, therefore, that it is a suitable test for the Franchise.

Mr. N. M. Joshi.] May I ask what is your objection to the isolation ?

Chairman.] That was one question quite outside our rule, Mr. Joshi ; a great concession. I think I should have it on my conscience if I allowed you to commit a second offence.

Mr. N. M. Joshi.

7673. Very well. In replying to my question, Sir Samuel Hoare, about the right given to subjects of Indian States for provincial elections, and when I asked you whether a similar right could be secured for British Indians in Indian States, you gave me a reply that you did not like to make any kind of interference in the internal affairs of the Indian States. My question to you is this : When two countries make a treaty of reciprocity on any subject, is it contended that the two countries have a right to interfere in the internal affairs of the other country ? Take, for instance, a treaty of reciprocity between one country and another as regards tariffs : it does not mean that because there is a treaty of reciprocity one country interferes with the internal affairs of the other country. Do you consider, when

that proposal is made to you, that if any rights are secured to subjects of the Indian States similar rights should be secured to British Indians in the States by means of treaties ?—I could give a number of answers to a general question of that kind, but I think perhaps it is sufficient to say that if we made it a condition that we should have these powers of interference and intervention in Indian States, we should not have an All-India Federation at all. No Princes or no States would enter the Federation.

Chairman.

7674. I propose now to adjourn the hearing of the evidence of the Secretary of State on the matter of Federation. Secretary of State, I understand that, before the adjournment, you desire to make a statement which is to go upon the Note ?—Yes, my Lord Chairman. It is a very short statement. I wanted to say a word or two to the Committee and the Delegates about the position with Burma. The position in a sentence or two is this :

The Government are not at the present time in a position to make a definite recommendation to the Joint Select Committee upon the subject of the separation of Burma, though we should hope to be in a position to do so, say in the early autumn. In the meanwhile it seemed to me to be the course that was best in the circumstances and most convenient to the Committee that I should circulate to the Committee a Memorandum pointing out what would be the constitutional position of Burma, if Burma were separated on the basis of the Prime Minister's statement. I am, therefore, proposing in the course of the next few days to circulate to the Joint Select Committee such a Memorandum. I am not asking them to take any decision upon the Memorandum ; neither am I asking them to discuss it at this stage at all. I am asking them to take it as one of the papers circulated to the Joint Select Committee for their consideration, and I would ask the Lord Chairman and the Committee to have a discussion as to what should be the best course to be taken with reference to Burma at some time early in the autumn.

7675. Of course, you would desire that the Delegates should have copies of the Memorandum?—Certainly; it is with that object that I am circulating it now.

Sir Austen Chamberlain.

7676. Is it to be circulated for confidential information or for publication?—It had better be circulated for publication.

*(The Witnesses are directed to withdraw.)*

Ordered, That the Committee be adjourned to Tuesday next, 10.30 o'clock.

25th July 1933.

Present :

Sir AUSTEN CHAMBERLAIN in the Chair.

Lord Archbishop of Canterbury.  
Lord Chancellor.  
Marquess of Salisbury.  
Marquess of Zetland.  
Marquess of Reading.  
Earl of Derby.  
Earl of Lytton.  
Earl Peel.  
Lord Ker (Marquess of Lothian).  
Lord Hardinge of Penshurst.  
Lord Irwin.  
Lord Snell.  
Lord Rankeillour.  
Lord Hutchison of Montrose.

Major Attlee.  
Mr. Butler.  
Major Cadogan.  
Sir Austen Chamberlain.  
Mr. Cocks.  
Sir Reginald Craddock.  
Mr. Davidson.  
Mr. Isaac Foot.  
Sir Samuel Hoare.  
Mr. Morgan Jones.  
Sir Joseph Nall.  
Lord Eustace Percy.  
Miss Pickford.  
Sir John Wardlaw-Milne.

The following Indian Delegates were also present :—  
INDIAN STATES REPRESENTATIVES.

Rao Bahadur Sir Krishnama Chari.  
Nawab Sir Liaquat Hayat Khan.  
Sir Akbar Hydari.  
Sir Mirza M. Ismail.

Sir Manubhai N. Mehta.  
Sir P. Pattani.  
Mr. Y. Thombare.

BRITISH INDIAN REPRESENTATIVES.

His Highness The Aga Khan.  
Sir C. P. Ramaswami Aiyar.  
Dr. B. R. Ambedkar.  
Sir Hubert Carr.  
Mr. A. H. Ghuznavi.  
Lt.-Col Sir H. Gidney.  
Sir Hari Singh Gour.  
Mr. M. R. Jayaker.  
Mr. N. M. Joshi.  
Begum Shah Nawaz.

Sir A. P. Patro.  
Sir Abdur Rahim.  
Sir Tej Bahadur Sapru.  
Sir Phiroze Sethna.  
Dr. Shafa'at Ahmad Khan.  
Sardar Buta Singh.  
Sir N. N. Sircar.  
Sir Purshotamdas Thakurdas.  
Mr. Zafrulla Khan.

The Right Hon. Sir SAMUEL HOARE, Bt., G.B.E. C.M.G., M.P., Sir MALCOLM HAILEY, G.C.S.I., G.C.I.E., and Sir FINDLATER STEWART, K.C.B., K.C.I.E., C.S.I., are further examined.

Sir Austen Chamberlain.] My Lords the Begum Shah Nawaz to be allowed and Gentlemen, I have a request from to put four questions on the franchise.

I feel a great difficulty in departing from the programme which was set for to-day. I am afraid if we start again with the franchise it will not be confined to her four questions, but will spread to other matters, and I think I must continue with the programme as settled by the Lord Chairman.

Mr. Y. Thombare.

7677. Negotiation is going on at present with the Princes as regards the question of allocation of seats, so I am not going to put any questions which will prejudice the course of the negotiations, but there are obvious difficulties in the way. In case His Majesty's Government have to give the final decision, would they be pleased to consider, as has already perhaps been suggested, that the idea would be to maintain a balance between the larger States, the medium States, and the smaller States?—(Sir Samuel Hoare.) Yes, we should certainly desire to maintain that balance.

7678. In that case would Government be pleased to consider that there will be some States which will have a special advantage on account of blocks or two or more votes at their disposal, as they will be exercised solidly, unlike, perhaps, votes that may be assigned to the Provinces, and that the other States with only fractional representation will labour under a correspondingly heavy disability. Would Government be pleased to consider that?—I think we must certainly take a point of that kind into account. I would, however, add that I should have thought the smaller States would have had more influence than is suggested in the question from the very fact that there will be representation by groups, and I am assuming that, although a particular small State might not have individual representation, it might have effective representation from the other members of the group with which it was working.

7679. The White Paper proposes that the Governor-General in his discretion should nominate representatives from the States?—No.

7680. There are ten seats altogether to which nominations will be made by the Governor-General in his discretion

as regards the Upper House?—Yes, I was not quite sure to what point Mr. Thombare was referring. That is so.

7681. Perhaps four of these seats will be from the States. Would not that disturb the balance that His Majesty's Government may have in the allocation of seats, because it will give four out of the 516 States a greater representation than is given to the remaining States?—No; I would have thought it would have worked the other way. It would be possible on occasion to use this small number of nominated seats as a means of redressing the balance, and I think myself the Governor-General, both in the case of British India and in the case of the Indian States, would take that into account in making his nominations.

7682. It would be open then to the Governor-General to take into account the need of redressing the balance in the case of States with only fractional representation?—Yes, certainly.

7683. The White Paper gives Coorg one seat both in the Lower and in the Upper House, though it has a population of only 167,000 odd. Will Government be pleased to consider the applicability of the principle underlying it to the cases of the important small States—not the full one vote, but something?—Mr. Thombare's question raises a big issue. The very essence of grouping is that there is not an opportunity for the individual representation of all the States, and it would be difficult for me to give an answer to his question either Yes or No, without suggesting something that is not intended. Our intention is definitely a representation of these small States by groups.

7684. Provided it were practicable, would Government be pleased to consider that those States might have certain minimum representation, for instance, one seat amongst two States?—It all depends on the number of seats available and the method or allocation, and until those two factors are defined it is impossible for me to give a definite answer to the question.

Marquess of Salisbury.

7685. When does the Secretary of State think these two factors will be decided?—Of course, it rests very much with the Committee—the question of number in each Chamber—and as to the

allocation, I am pressing on with the negotiations as quickly as I can in India.

7686. It depends upon negotiations in India?—With the allocation I think it has always been clear that we are anxious, if we can, to obtain agreement among the Princes themselves, and we are still going on with negotiations to that end. I hope they will succeed.

*Mr. Y. Thombare.*

7687. In certain Federal Constitutions there is a limit put to the number of seats allowed to the most populous units, so that their representation is below what they would have according to the strict population ratio. The White Paper also gives a similar treatment to Bengal, Madras and the United Provinces. Would Government be pleased to consider the applicability of this principle to the case of the States so as to increase the weightage that can be given to the smaller States?—Here again my last answer applies equally to this question. These are matters for discussion and negotiation, and it is impossible while these two factors are undecided, namely, the number of States and the method of allocation, to give an explicit answer to a question of that kind, but, as I said at the beginning of my observations this morning, certainly we wish to carry with us not only the big States, not only the medium States, but the smaller States as well, and we have to take into account the three different points of view in the system of allocation upon which we are engaged.

*Sir Akbar Hydari.*

7688. May I ask one question with reference to that? On the same consideration I suppose you take into account the fact that the Central Provinces including Berar would have eight seats, and Sind and Orissa and the North-West Frontier Provinces would have five seats each, and, as Indian States are coming individually, Hyderabad, with a population as large as that of the Central Provinces, even if Berar is included, would have, according to the reasoning of Mr. Thombare, eight seats, and Mysore, at least five seats. You would have to take into account considerations of that kind also. I am not suggesting you should give me

a final answer, but I do suggest that that would be also a consideration?—It was just because of those facts that I gave the answer that I did give to Mr. Thombare. We are very conscious of these facts, and they are just the kind of facts that we are constantly considering in the discussions that we are having with the Princes.

*Mr. Y. Thombare.*

7689. For myself I have stated that the larger States, on account of the blocks of votes at their disposal, will have special influence. There is only one question more: On a scrutiny it appears that if States with a population of above five lakhs each are allowed to have one seat each in the Lower House for a unit of population of 500,000 subject to the variation that 2,000,000 should qualify for two seats, 3,000,000 for three, and so on, the Chamber States could have in some cases two seats for each three of them, and one seat for each two of them at the minimum. I do not want any final answer about it, but would Government be pleased to give their consideration to such a scheme of allocation of seats?—I think one has got to take into account factors other than the factor of mere population. The more I have been into this question of grouping the more clear I am that you cannot solve it as you would solve a mathematical sum. You have got to take a lot of issues into account. That is one further reason why I am very anxious that the States should settle it in agreement amongst themselves.

7690. My question was with regard to the Lower House, where population would be the basis in the main. There might be an augmentation of votes in some way or another so long as the full number of States were not entering into the Federation. Would an opportunity be taken in that case to consider the practicability of giving additional representation to States with only fractional representation?—I think that is one of several points that should be taken into account.

*Sir Manubhai N. Mehta.*

7691. May I request that, as we are dealing with Federation and the States have a very close and intimate concern with the question of Federation, I may

be allowed the latitude of extending my time by about a couple of minutes more? I will first ask some questions regarding the strength of the two Federal Chambers. Secretary of State: May I inquire, is it not a fact that at each sitting of the Round Table Conference we have considered this question and have arrived at certain tentative conclusions? For instance, at the first Round Table Conference, when we discussed the question, the conclusion arrived at was that the Lower Chamber should consist of 250 and the Upper Chamber of 100 to 150. At the Second Round Table Conference the question was discussed at length and the numbers arrived at were: Lower Chamber, 300; Upper Chamber, 200. Then the question was referred to the Franchise Committee. Lord Lothian's Committee recommended for the Lower House the total of 450. He did not recommend any change in the Upper House and that question was again discussed at Third Round Table Conference. As the result of the discussions at the Third Round Table Conference the numbers now recommended by the White Paper are 375 for the Lower House and 250 for the Upper House. Are these figures correct? I believe they are correct?—I think so. Certainly, the figures of the White Paper were correct.

Sir Akbar Hydari.] What was the result of the Third Round Table Conference?

Sir Manubhai N. Mehta.

7692. I am asking that. In the Second Round Table Conference a decided opinion was expressed by the Princes that in the Lower House the numbers should not be less than 250. May I refer you to the remarks of the Princes and of Sir Akbar Hydari in the proceedings of the 23rd of September, 1931? May I say that Sir Akbar Hydari referred to the conclusions of the First Round Table Conference and said that the numbers were 250 in the Upper House and 100 to 150 in the Lower House? Then he urged that the numbers might be small. The Maharaja of Bikaner said: "May I say that is an individual expression of opinion; it is not made for the Princes. (Sir Akbar Hydari.) I have not given it as such; I have said this is my strongly held view. But here again, if our

British-Indian colleagues all strongly feel that, in view of the increase in population as shown by the Census of 1931, some advance should be made upon these figures. I submit that the number of the Lower House should not be advanced beyond 350, and that then the figure for the Upper House should be not beyond 250." Is it not then correct for me to say that Sir Akbar Hydari at the Second Round Table Conference fixed the maximum number for the Upper House at 250?—I think that is a question you had better address to Sir Akbar Hydari.

Sir Manubhai N. Mehta.] I am referring to the Minutes.

Sir Austen Chamberlain.] Sir Manubhai, is not it possible to put your questions a little more shortly, without reading long extracts? We are rather pressed for time.

Sir Manubhai N. Mehta.] Yes. I will only read one extract now, but the others will be short questions. Coming to the weightage question, I would remind the Secretary of State of his speech in the proceedings of that very date in 1931, and then I will ask my questions. "Then there was another detail," Sir Samuel Hoare said, "a very important detail, that was raised this morning, namely, this. Supposing a large number of Princes do not enter the Federation at once, what is to be their voting power until the full number enters? I understood Mr. Sastry to say that he thought that the voting power should be strictly proportionate to the number of Princes actually in the Assembly at a given time. Now, that sounds all very well from a logical point of view, but we must remember this, that in creating this Federation we are bringing together two separate interests, and I myself can quite believe that the Princes would say themselves that they really would be placing themselves at an unfair disadvantage if they entered the Federation, even though it be in comparatively small numbers, without having an effective voting power. I venture, therefore, just to throw that out in the discussion as a word of general caution." As you said in reply to Lord Reading and in the course of examination, you were prepared to give some extra weightage to the Princes at the outset if they did not



join in sufficient numbers. According to the limits laid down by the White Paper, 51 per cent. was the minimum and at that strength the Princes would be entitled to only 20 per cent. The total strength allowed is 40 per cent. That means that with every 10 per cent. increase only four more votes would be given. May I inquire if you have thought out what would be the extra weightage that you would allow?—I would not myself go up to the full 100 per cent.

7693-4. May I inquire, in view of the difficulty I pointed out the other day about minority administrations, whether you would not be inclined to treat it more leniently and give it extra weightage on account of minority administrations?—I think one has to take the minority question into account. My own view would be that 100 per cent. weightage would be too much. As to the exact percentage below 100 per cent., I think that is a question for discussion. I have a rough view in my mind, but I would prefer to hear the views of the Committee before I expressed any final pronouncement upon it.

7695. One more question about weightage. Has the Secretary of State thought of giving this extra weightage on any uniform principle, either, say, that the extra weightage might be given to the smaller States, or might be given to larger States, on account of their population? Has any uniform principle been thought of?—Here, again, I have thought that, in the first instance, it is essentially a question for the Princes themselves. What I have in mind is nothing in the nature of an official block nominated by the Viceroy, but a strengthening of the States representation for the purposes for which the States enter the Federation. That seems to me to be essentially a case, in the first instance, for the Princes themselves, and I would welcome an expression of opinion from the Princes' representatives and from the Princes themselves as to how from their own point of view that weightage could best be made.

7696. That the Princes' representatives will consider and give. I will turn to

another point, and that is the permission, or rather the opportunity allowed for moving resolutions or questions in the Federal Legislature, with the permission of the Governor-General to ask questions regarding even non-Federal matters in the two Houses. In this connection, would the Secretary of State please look to the present provisions in the Indian Legislative Rules. There are two rules. The rules are: "Provided that no question shall be asked in regard to any of the following subjects, namely . . .

(ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief." May I ask if there is any reason why this privilege should be attenuated under the White Paper? Would it not be more pleasing to the Princes, and would it not induce the Princes to join if the present rule is adhered to instead of being changed?—I think substantially the existing position will continue. I think we have to take into account, with the institution of the Federation, the possibility of certain discussions being not only necessary, but being admitted to be necessary by everybody concerned. I have in mind particularly discussions concerning a British-Indian subject or a British-Indian Company; it is those kind of questions which we have in mind when we contemplate discussion about the affairs of the States. It is nothing more than that.

7697. May I ask if this formula be accepted, that where the Minister replying to these questions is responsible for the policy to be carried out, then the question may be allowed, but if it is purely regarding internal administration of the State, and the Minister is not responsible, questions or resolutions may not be allowed?—I feel we have got to look into this definition again. As at present advised, I do not want to cut out the possibility of the kind of discussions to which I have alluded.

7698. I ask you, may not the present rule be adhered to?—I am advised that under the present rule discussions of that kind would be cut out, and I think it would be a mistake, from every point of view, not only from the point of view

of British India, but from the point of view of the States, as well. I think we had better look into this definition further and try to meet the two points of view, namely, that we do not want discussions in the Federal Legislature upon questions which do not concern the Federation at all, namely, the internal affairs of the States ; but we do not want to cut out the kind of questions to which I have alluded, that is to say, questions concerning British subjects or British companies.

*Dr. B. R. Ambedkar.*

7699. May I say one thing, Sir Samuel. You said internal administration. That would mean internal administration, so far as it does not appertain to subjects which are Federal?—Exactly.

*Sir Manubhai N. Mehta.*

7700. I come now to the Federal subjects. Would the Secretary of State kindly tell me if the present arrangement by which the Federal subjects and their discussion as Central subjects are all grouped is quite satisfactory? The Princes do not like this present arrangement because the first 48 or 49 subjects in Appendix VI are really Federal, whilst the latter subjects, up to 63 from 49, they were inclined to regard as Central. Now, grouping them together under one head, is likely to give them a wrong impression, that they can deal even with the latter subjects which might become Federal? Would there be any objection to treating them or classifying them separately?—Sir Manubhai Mehta raises a question that we have discussed in some detail. It is not so much a question of principle as a question of Constitutional convenience. We have been informed by our expert advisers that judging by the experience of other Constitutions the fewer lists you have, the better. The more lists you have, the more opportunity there is for litigation, and for a "No-Man's Land" between the various lists. On that account, we have been very anxious to keep the lists as few as possible, and as simple as possible. It was upon that ground chiefly, that we included all these Central Services, whether they are Federal or whether they are British-Indian Central

Services, in one list, drawing, however, a gap between the two, as Members of the Committee will see upon page 115, and realising the whole time that the Princes are, speaking generally, only contemplating coming in upon the first 48 subjects. That is the reason why we put these two chapters into one list.

7701. The gap intervening between the two is not quite explicable and understandable by people who do not know why they are so arranged. May I draw attention or recommend to the Secretary of State to adopt the principle which has been adopted in the German Constitution, by which subjects which are exclusively Federal are separated from subjects which are concurrent and those which are purely Provincial. That would be a much more intelligible arrangement, to which the Princes would have no objection. Would not that be preferable?—As I say, this is essentially a question for Constitutional experts. My expert advisers have been in favour of this single list. It is obviously a question that the Committee must consider, but let me again say it is not a question of principle; it is a question of Constitutional convenience.

*Mr. Y. Thombare.*

7702. Could they amplify it in a subsequent note on the question of Constitutional convenience?—I will look into that suggestion.

*Marquess of Salisbury.*

7703. Might I just ask the Secretary of State about the gap in the list? He cannot very well reproduce the gap in the ultimate Act of Parliament: there will have to be something done to mark the difference?—I think that is certainly so, but whether it should go to the length of having a separate list, I would not like now to express an opinion upon; in fact, my advice is against a separate list at present.

*Sir Manubhai N. Mehta.*

7704. The Secretary of State is, of course, aware that the Princes are very solicitous about the sacredness of their Treaties. There is one section, 132, in the Government of India Act at present: "All treaties made by the East India Company, so far as they are in force at

the commencement of this Act, are binding on His Majesty." May I ask why such a section has not been repeated in the White Paper?—My answer, on the face of it, would be that it has no place in the White Paper, for the very simple reason that we do not regard questions of paramountcy as coming into the Federal Constitution at all.

7705. We have already once referred to the question of subjects to which they may agree to bring into Federation by treaty or otherwise. The Princes are apprehensive of this term "or otherwise." If some reference had been made to the Treaties in the White Paper, their minds would have been reassured. That is why I ask the Secretary of State, will it not be equally useful to bring such a provision about treaties into the White Paper?—No; I think myself it would be a great mistake. Both from the point of view of the Indian Princes themselves and also from the point of view of the prerogative of the Crown. I think the much better course would be to meet Sir Manubhai Mehta's point by removing the words "or otherwise" from the proposals. I am informed that there is no need to retain them.

7706. One last question, and it is about Article 110 of the proposed White Paper: "It will be outside the competence of the Federal and of the Provincial Legislatures to make any law affecting the Sovereign or the Royal Family, the sovereignty or dominion of the Crown over any part of British India." Is there any objection to bringing forward the relations or of the Princes under this section, so that it may be beyond the purview of the Federal Legislature ever to refer to these treaties or to change them?—Here again my answer is the same answer that I gave just now. We think it is much better from the point of view of the Princes to keep questions of this kind out of the Act. I think if they will consider the reactions of any other course, they will see that that is really the wisest course from our own point of view.

Nawab Sir *Liaquat Hayat-Khan*.

7707. Secretary of State, is it not contemplated under the White Paper scheme

that the contents of Federal jurisdiction with regard to the States would be expressly limited to subjects and powers specifically transferred under the Instruments of Accession, and that any additions thereto would be subject to subsequent agreements between the parties concerned. Is that the position taken up by the White Paper?—Yes, it is.

7708. Then proposals 11, 18 and 20 of the White Paper deal with the special powers of the Secretary of State and the Governor-General with regard to the Reserved Departments, and to their special responsibility with regard to Transferred Departments. Is it understood that the exercise of these powers so far as they affect the States will not override and will be subject to the existing treaties engagements on Sanads between the Crown and the States?—Yes, I think that is the case with this one reservation that no doubt is in Sir Liaquat's mind as well, except so far as the treaties and Sanads are altered by the Treaties of Accession.

7709. That I admit. May it be assumed that with regard to the Upper House as well as the Lower House, as in the case of British-Indian Provinces, there will be Appendices attached to the Act indicating the distribution of seats out of the States' quota to the various States?—Yes, there must be.

7710. Am I correct then in stating that there is nothing in the White Paper Proposals to prevent such of the States as may so desire to pool their allotted quota of the seats and "wherever possible" select joint representation on such terms as may be agreed?—No, we do not contemplate dealing with questions of that kind in the Constitution Act at all. I have always taken the view that questions of that kind are really questions of internal organisation for the Princes themselves; and there will be nothing in the Constitution Act, so far as I contemplate it, that would either ordain an arrangement of that kind or would preclude it.

7711. In view of the very strong body of opinion amongst the States on this question, could you kindly consider the advisability of making it definitely clear in some suitable manner, if not in the Act at least in the Appendices proposed,

that such joint action will be permissible for such States as may so desire?—I would have preferred to leave a question of this kind as really a question of internal organisation. I do not myself see how it could come into the Constitution Act; nor do I quite see how a reference to it could be made in the Constitution Act.

7712. Perhaps in the Appendices relating to the allocation of seats amongst the States. Is it possible to mention it there somewhere, that it is open to the States to enter Federation by any private arrangement that they might make?—Off-hand, I see a difficulty about mentioning it in any part of the Act, and, of course, the Appendices are a part of the Act; presumably, they will be scheduled to the Act. It is, of course, for the Joint Select Committee to consider whether or not they would mention this desire of certain of the Princes in their Report.

Sir *Hari Singh Gour*.

7713. Do I understand the Secretary of State to mean that the Act deals with the relationship of the Federation and the States and cannot make an excursion into the relationship of one State with another *inter se*?—Not over and above the grouping that, of course, will come into the Act.

Nawab Sir *Liaquat Hayat-Khan*.

7714. May I ask you to turn to Proposal 41 of the White Paper at page 47? If a decision of the Joint Session, contemplated under this paragraph be by a bare majority, do you not appreciate, as was pointed out at the second Round Table Conference, that in view of the disparity between the strength of the two Houses, this proposal will seriously detract from the co-ordinate authority of the Chambers, and would, in fact, mean that any proposal which had very substantial support in the Lower House could in certain cases be passed in spite of the unanimous opposition of the Upper House?—I am afraid that it is inherent in any proposal for the settlement of disputes by a Joint Session of the two Houses that the larger House has a definite advantage, and I think we have got to accept that as an objection to the

system of joint Sessions. The difficulty is to find a better way of settling disputes between the two Houses. I would hope, in answer to Sir Liaquat's further question, that the kind of situation he contemplates would not arise. I would have thought myself that it was very unlikely that the Lower House, in which the Princes will have a representation of 33½ per cent. would be solidly against the Upper House, or that the Upper House, in which British-India has a representation of 60 per cent. would be solidly against the Lower House. I would have thought that in the matter of disputes between the two Houses there would be much more cross voting than that kind of situation contemplates.

7715. Would you kindly turn then to Proposal 48, at page 49 of the White Paper. Is it correct to assume that the White Paper contemplates that the Federal Executive will have to carry the confidence of the Legislature, and therefore, will be responsible to both Houses and not to any individual House. Is that the correct position?—Yes, it is certainly true to say that the Federal Government will depend upon both Houses.

Nawab Sir *Liaquat Hayat-Khan*.] Will it not seriously detract from the influence of the Upper House over the Executive if it were not given an effective share in the control of supplies?

Marquess of *Salisbury*.

7716. I do not know whether I might intervene and ask whether the Secretary of State has a clear idea in his mind of what he means by the responsibility to both Houses? I am afraid I have never been able quite to understand the phrase?—Would Lord Salisbury ask me a question about it?

7717. Supposing the Government received a Vote of Confidence in the Lower House and was refused a Vote of Confidence in the Upper House, what would they do?—It would depend upon how serious they regarded the crisis. It might be that there would be a deadlock between the two Houses; in that case, they might have to have recourse to a Joint Session.

7718. On a Vote of Confidence?—Yes, I do not see why they should not. I

suppose it would be upon some substantive motion.

Marquess of *Lothian*.] Would not the position be the same as the position in this country before the passage of the Parliament Act ?

Marquess of *Salisbury*.

7719. My Noble Friend is at least as good an authority as I am, perhaps much better, but I should have said that even before the passage of the Parliament Act, there was no question that the Government was responsible only to the House of Commons ?—I think it must depend upon as to whether or not the Government could carry on with the support of one House, and if it could not carry on, whether it then would ask for a dissolution, or whether in a particular case there would be a demand for a joint Session. It is impossible to give one general answer to a question that really covers a number of different kinds of contingencies.

Lord *Rankeillour*.

7720. Section 41 contemplates, surely, a Bill, not a Resolution ?—Yes. I was contemplating a substantive motion of some kind, a vote of some sort.

7721. But would there be any point in that going to a Joint Session at all ?—I think it must be judged upon the situation.

Sir *H. Gidney*.

7722. My Lord Chairman, may I ask just one question of the Secretary of State ? In the event of a Vote of no Confidence being passed in the Lower House, and the Government being unable to form a Ministry, and considering that it is a joint Ministry, would it not affect the Upper House, too ?—I do not quite follow the question.

7723. Would it mean the dissolution of both Houses in the event of such an impasse ?—I conceive that it might, but I can conceive also that it might not, it depends upon the type of crisis.

Marquess of *Salisbury*.

7724. The way I should like to put the question is this : Is it not really the fact as the Secretary of State says most

reasonably, that it depends upon the circumstances of the case, that the thing really does not have much meaning at all, being responsible to both Houses ?—No, I would not admit that conclusion.

Earl *Peel*.

7725. Secretary of State, does not it really depend upon the use and wont ?—If I may just complete my answer to Lord Salisbury, I think he must take into account the contingency of a Joint Session. A Joint Session does bring in both Houses, and the Government might, in one way or another, stake its fortune upon a Joint Session.

7726. I think that is a very fair answer, but the Secretary of State heard the question of my Noble Friend, Lord Rankeillour. Clause 41 does not apply to anything except a Bill ?—Yes. I think we ought to look into that point further to see whether it should not be clear that it would also cover a substantive motion of some kind in which both Houses could be brought into action. I would remind Lord Salisbury, that if he would look at Clause 48, he would see there that both Houses are brought in upon the field of supply ; and I think he will agree that in his experience supply is very often the issue upon which Governments stand or fall.

Marquess of *Salisbury*.] I will not pursue it now, because I will have a further opportunity later on.

Earl *Peel*.

7727. I was in the middle of a question, but I was going to ask this general question, whether the use and wont and development of the Constitution will not determine, as time goes on, which is the more powerful House of the two ; it may be the House called Lower, it may be the other House. Then one would be really the dominant House, and, in fact, though not in theory, the Government would probably be responsible really to one House. Is not that how it is likely to work out ?—I think, judging from the experience of other Constitutions, that is the way it usually does work out.

7728. And, therefore, these other questions are rather theoretic than practical, are they not, with great respect to those

who asked them?—They are something more than theoretic. After all, the conditions are somewhat exceptional, namely, the fact that one of the units of the Federation attaches considerable importance to the Upper House, in which it has a larger representation. I think that fact must always carry weight in the development of a Federal Constitution in India. By no arrangement that you can make can you establish an absolute equality, of course, between the two Houses; that is impossible.

Lord Rankeillour.

7729. It is not a theoretic proposition that the Upper House may throw out supply in this case?—Exactly.

Lord Eustace Percy.] The question is whether the Upper House can grant supply. If it be true, that in this country in practice the Government is responsible to the House of Commons only, it is because the House of Commons alone can grant supplies.

Mr. Morgan Jones.

7730. Seeing that the Government can at all times ask for a Joint Session, does not this follow: That supposing the Lower House which is the more democratically elected House, carries a motion of no confidence on a question of social legislation, such as labour conditions, or something of that sort, and it appears then to the Upper House, does it not, in practice come to this, that on issues like that the Government can so arrange that it can never be turned out by the Lower House on a subject of social legislation?—I would not admit that at all. After all, let Mr. Morgan Jones remember the Constitution of the Upper House, which he says is less democratic than the Lower House. That may or may not be the case, but, even in the Upper House, 60 per cent. of the voting is British India.

Mr. Morgan Jones.] Yes, I am not unaware of that, or unmindful of it, but my point was this, Sir Samuel, that the Upper House will tend to be more Conservative (using the word "Conservative" in a non-party sense) in constitution than the Lower House, and therefore would, presumably, be more

likely to be less sympathetic to social legislation than the Lower House.

Sir Austen Chamberlain.] Why? A great many assumptions underlie that question to which all the members of the Committee will not agree.

Mr. Morgan Jones.] I will not enter into an argument with you.

Sir Austen Chamberlain.] Is it worth while putting the question to the Secretary of State?

Mr. Morgan Jones.

7731. I thought so, but I will not press it if you do not think it is worth while. Without going into the wider issues raised by Mr. Morgan Jones I would remind him of the Constitution of both Houses. I do not myself admit that one House is more democratic than the other. I will not enter into an argument with Mr. Morgan Jones, but, if he will look at the way each House is constituted, he will see that each House, setting aside the representation of the Indian States, is constituted upon what he would call a democratic basis.

Mr. Morgan Jones.] I could pursue it, but the Chairman thinks it is not worth while.

Nawab Sir Liaquat Hayat-Khan.

7732. In view of the fact that the Upper House will have to share responsibility with the Lower House including Federal Legislation and raising fresh taxation, and in view of the fact that the Executive will be responsible to both the Houses, Upper and Lower, would not you be good enough to consider the suggestion already made that voting of supplies should be in a Joint Session of both the Houses?—I think in considering a question of that kind we have to keep in mind the practical difficulties. We have tried to give the two Houses equal powers as far as we can. At the same time we have to take into account questions of actual practicability, and, taking those questions into account, it does seem to me strongly to point to grants originating in one House, and to our avoiding a huge assembly as it would be, namely, a Joint Session of 600 or 700 members dealing with every grant. That is one of the

main reasons that have prompted us to propose that grants should originate in the Lower House leaving, however, the Government the power to introduce grants into the Upper House if it so wishes.

*Sir P. Pattani.*

7733. I have only two questions to ask : With regard to the list of Federal subjects, may I know whether it will be open to the States in the Document of Accession to say that they federate only to the extent of the first 48 items in the common list ?—Yes, certainly.

7734. With regard to the Treaty and engagement rights of the States I quite appreciate, and, I think, after the explanation the Secretary of State has given, the States will also appreciate that these treaties and engagements and agreements, having been arrived at with the paramount power, are outside the purview of the Federal Constitution, but, in order that this point of view may be always kept in view by the Federal Constitution, will it be possible to say in the Act, where it is suggested that the paramountcy is outside Constitution, that the relations of Indian States and their treaty rights and engagement rights, being outside, and within the purview of the paramountcy, they will be governed by the present provision of the Government of India Act, just to satisfy the Princes ?—My expert advice is all on the side of making no reference to paramountcy at all in the Act. It is, however, possible that we might make a reference to the position in a declaration of some kind, perhaps in a Royal Proclamation, and I certainly would consider the suggestion from that point of view, but I would once again say that my view (and it is supported by all my expert advisers) is that it is better to leave paramountcy out of the Act.

*Rao Bahadur Sir Krishnama Chari.*

7735. And any State in its Instrument of Accession would preserve all such treaties as it wanted to preserve ?—Yes.

*Rao Bahadur Sir Krishnama Chari.]* In any case in its Instrument of Accession the State will preserve all the

treaties which are not affected by the Federation.

*Sir Joseph Nall.*

7736. Although the Secretary of State points out that matters of paramountcy are necessarily not subject to the White Paper, and would not appear in the subsequent Act, the field is in fact covered in the Terms of Reference of this Committee, and the Committee will have to have paramountcy in mind in our Report. The Terms of Reference to this Committee quite obviously include it ?—I think that is a matter for argument, but, whatever may be Sir Joseph Nall's view about it, my own very strong view about it is that we had much better keep it out of the Constitution Act. It is a question for the Committee and Lord Chairman to determine whether Indian India does come into the Terms of Reference, which are mainly directed to British India.

*Marquess of Reading.*

7737. Is not paramountcy entirely outside the Constitution ?—That is a matter which is simply between the Crown and the Viceroy and the Princes, is it not ?—That would have been my view.

*Sir Joseph Nall.]* I only submit the view that the White Paper proposals are only one part of the Terms of Reference to this Committee.

*Sir Akbar Hydari.*

7738. Will it be possible to state in the Constitution Act, possibly in the Preamble, that the field of relationship as between the Crown and the States outside the Federal sphere will be outside the scope of the Federal Constitution, and would not that meet it ?—I would much rather not commit myself to any way in which such a declaration should be made. As a layman who knows nothing about these legal questions at all I should be nervous of bringing it into the Act, either into the Preamble or into the Act itself, because I should be so much afraid that the lawyers would then get hold of it, and, before you knew where you were, they would drag it into the Federal Court.

Sir *Tej Bahadur Sapru*.

7739. May I draw Sir Samuel's attention to Section 132 of the Government of India Act at present, and would he say whether it has any bearing, and whether it applies?—(Sir *Malcolm Hailey*.) I think the answer to that question is that Section 132 was put into the original Act for a special purpose, namely, to carry on the treaties that had been concluded with the East India Company, and to secure their continued validity under the new arrangement.

7740. Are not most of the treaties with the Indian Princes of the time of the East India Company?—There were a very large number. This section dates from about 1858. It was not introduced in the recent revision of the 1919 Act.

7741. It goes back to 1858?—Yes.

Sir *P. Pattani*.

7742. There are subsequent engagements and agreements with the Government of India as it exists to-day. Beyond those treaties entered into with the East India Company there have been many subsequent engagements and treaties with the Government of India as it exists to-day, and they are all, I hope, of the same validity, and are equally safeguarded and guaranteed?—Yes.

7743. After the promise, or the Secretary of State's suggestion that it might be possible to have a declaration by the Crown regarding the guarantee of the treaties, I do not wish to press the point because I quite realise that such a provision in the Constitution might raise difficulties in the future, as was explained by the Secretary of State.

Sir *Tej Bahadur Sapru*.

7744. May I suggest to the Secretary of State to take into consideration the bearing of the first part of Section 131 and Section 132 upon the replies which he has been giving and upon the point of view which has been submitted by the Indian States representatives. You cannot overlook that?—(Sir *Samuel Hoare*.) I had not overlooked it, and my attention had already been drawn to it, and my advisers tell me that that need not modify the answers I have given, but, obviously, after what Sir

Tej has said, I will look into anything he suggests again.

Sir *P. Pattani*.] Before I had finished my question Sir Tej came in with a question.

Sir *Tej Bahadur Sapru*.] I am sorry.

Sir *P. Pattani*.

7745. When the pronouncement is made by the Crown will it be on the lines of the pronouncement made in 1857 when the change of Government from one hand into another was brought about. The present juncture is only a question of a constitutional reform, and the States would naturally wish, and I think Government ought to insist, that the pronouncement regarding the treaties and the relations with the States should be on the lines as pronounced in 1857. May I take it, when further consideration is given to this, it will be considered?—I would not again like to commit myself to the actual form, but I can say offhand I see no objection in principle to the suggestion Sir Prabhashankar has made and we will consider it.

Dr. *B. R. Ambedkar*.

7746. I would like to ask the Secretary of State whether the Instruments of Accession that would be passed by the different States on entering the Federation would find a place in the Constitution Act.—The answer is: No, they would not.

7747. How would it be possible, supposing a dispute arose in a Federal Court, for the Court to determine whether any particular subject which was the subject-matter of dispute was within the competence of the Federation?—I imagine—here I speak as a layman—they would take into account the treaty, just as they take into account treaties now.

Sir *Tej Bahadur Sapru*.] Yes.

Dr. *B. R. Ambedkar*.

7748. But it would not be part of the Constitution Act?—No; it would not be in the Constitution Act; neither are the Treaties now in any Act of Parliament, yet (Sir *Tej Sapru* and other Indians will correct me if I am wrong) treaties have been constantly taken into account.



Sir *Tej Bahadur Sapru*.] Yes. Treaties are part of the municipal law everywhere.

Sir *Akbar Hydari*.] I have not had any opportunity of putting questions regarding Federation, so may I do that now ?

Sir *Austen Chamberlain*.] I will come back to you.

Sir *C. P. Ramaswami Aiyar*.] With regard to the strength of the Legislatures, Mr. Chairman, would it not be correct to say that the position now is—whatever ideas originally were held on the subject—that the strength as now indicated in the White Paper is the strength arrived at as a result of the desires of the Provinces, and the majority or a large number of the States ?

Mr. *Zafrulla Khan*.] Before the Secretary of State replies to that question, may I ask your advice on one matter ?

Sir *Austen Chamberlain*.] I think I must allow the Secretary of State to reply first and then you can put your question.

Mr. *Zafrulla Khan*.] I am not putting a question. I am asking your advice with regard to a question. I do not object to the question at all, but I want to know whether we are entitled to put questions at this stage relating to paragraphs 22 to 37 which my Lord Chairman had reserved under sub-head (4). I want to know what sub-head we are on. I thought we were on sub-head (2). Questions have already been asked about (4), and I want to know whether these questions are permissible, so that in my turn I may put questions.

Sir *Austen Chamberlain*.] According to the Lord Chairman's proposal, we are on 1 to 60. Paragraphs 26 to 37 were excluded from that and put down under the Franchise question.

*Witness*.] I would have thought the discussion has roved over a rather wide field. Perhaps it is difficult now to maintain the distinction between the two chapters, but it is for you to decide.

Sir *Austen Chamberlain*.] I agree. I think we must allow our Members to exercise a certain latitude. They cannot work their minds entirely in watertight compartments.

Sir *C. P. Ramaswami Aiyar*.

7749. Shall I put the question again ?—I think I remember the question, Sir. It is true to say that the proposals in the White Paper are a result of taking into account the various points of view and also taking into account the views expressed at the three Round Table Conferences. In the nature of things, they are something of a compromise, and I would not say that the actual figures are verbally inspired one way or the other. Upon the whole, we have thought that they were a fair basis for the discussion of this Committee.

7750. Would it also be correct to say that there were discussions in India subsequent to the Round Table Conferences which also dealt with this question of the strength of the Legislature ?—Yes, certainly.

7751. Would it be accurate to put the position like this, that it would be more likely to give satisfaction if a larger House enabled more component parts to take an effective part in the Federation ?—It is not altogether easy to give an answer in a single sentence to an inquiry of that kind. I think, up to comparatively recently, many of the States thought that it was possible to have individual representation for all the States. That I think we are agreed now is quite impossible. Any system of representation must include groups and until the States have gone somewhat further into the grouping it is very difficult to give a definite answer as to their views about numbers. For instance, when it is clear to certain States that they can only be represented by grouping, that fact may have a bearing upon their view as to the numbers of the Chamber. Speaking generally, however, it would be fair to say that the kind of numbers that we have suggested look like satisfying more States than a smaller number.

7752. I come to another subject and that is : For helping the Viceroy and the Governor-General in the interpretation of the Constitution, and also with regard to the questions that may arise out of his special responsibility, would or would not it be necessary to provide in the Constitution for a functionary analogous to the Attorney-General or the Advocate-General ?—This is an important sugges-

tion that has been made during our discussions, and I would like to think further about it. It is a question that I think the Committee and the Delegates ought to consider.

7753. In the consideration of that question would the Government bear in mind the very important and almost quasi-judicial functions exercised by such a functionary and the very great part played by the Attorney-General in the English Constitution?—Yes, I think that is a feature that ought to be taken into account.

7754. Would the matter also allow of consideration like this, that in a Federal Constitution, with the possibilities of conflicts of interpretation and the setting at rest of difficult questions that may arise with regard to Provinces and the Centre, the Federal Government and the States, and the necessities that the Governor-General and the Viceroy may have of having expert advice, such a functionary would be most essential?—I think that is the kind of consideration that the Committee ought to have in mind.

7755. Certain questions were asked of the Secretary of State regarding the allocation of seats. I take it that in the main that allocation would be left primarily and to start with for agreement between the States?—Yes.

7756. And it is only to the extent, and when such agreement becomes impossible, that any further question would arise as to the Government intervening *suo motu*?—Yes.

7757. With regard to the question of discussing and asking questions on matters connected with Indian States, I take it the main object of Government would be, as far as possible, to preserve the present position of affairs?—Yes.

7758. At the same time it is possible that in the interests of one or more of the States, the asking of such questions might be an advantage rather than a disadvantage?—Yes, I think there might be such cases.

7759. But apart from what may be called the exceptional treatment arising in that particular, the present state of affairs is contemplated as existing in future?—In conjunction with what I said in answer to earlier questions this morning.

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Begum Shah Nawaz.

7760. Secretary of State, you are aware of the principle of equality between the women of India attach to the recognition of the principle of equality between the two sexes with regard to their rights of citizenship being recognised as a fundamental right in the new Constitution. If there is to be no chapter on fundamental rights, may we know if it is contemplated that this will be made either in the pronouncement by the Sovereign before the inauguration of the new reforms or in the Instrument of Instructions?—I am not quite clear what it is that the Begum desires; could she make her wish a little more precise?

7761. That in future sex shall be no disqualification for a woman to serve in any and every capacity. In this connection, may I point out the position of the lower sex in Section 75, on page 37, line 10?—It is very difficult to give a general answer to a very general question of that kind. One has got to take into account the kind of declaration that might be made and the kind of reactions that might take place, if a declaration were made. What I would say is that we will take into account what the Begum has proposed and see how far it is practical and safe to make the kind of declaration that she desires.

7762. And the principle of reservation of seats for women having been accepted by His Majesty's Government under the communal award, may we know why no seats have been reserved for women in the Council of State?—We have with the Council of State worked very much on the lines of the Lothian Report, namely, that while special interests are represented in the Lower House, they are not, as such, represented in the Upper House. The Begum will, however, see that it is open to a woman to be elected to the Upper House just as it is open to a man. She will also remember that the Governor-General will have the small number of nominated seats to fill, and so far as I am concerned, there would be no proposal in the Constitution that would preclude him from nominating a woman or women to some of those nominated seats.

7763. I mention this, because we find that wherever no such reserved seats are

provided for, people are taking it for granted that it is the intention of His Majesty's Government that women should not enter the Assemblies?—I myself should like to see some women in the Council of State; I think it is most important that we should see some there.

7764. According to the Proposals in the White Paper, there is to be a very high property qualification for membership of the Upper Chamber. This would mean that there would be very few women who would be qualified for membership of that House. May we request you to supplement this high property qualification by an educational qualification either for both men and women, or if it is not possible to have that for men, at least for women?—As I said the other day, I do see considerable administrative difficulties against a differential educational qualification for men or women. As to whether there should be added to the qualifications for the Council of State an educational qualification common to both men and women, I think that is essentially a subject for the discussion of the Committee. I would not to-day like to express a final view, one way or the other.

7765. I do not mean by the franchise qualifications, qualifications for membership of the Upper Chamber?—That was what I had in mind when I gave the answer. The Begum will remember that any member of a Provincial Chamber, apart from these qualifications, can be elected to the Council of State, men or women.

Marquess of Lothian.

7766. Irrespective of the property qualification?—Yes. If Lord Lothian will look at paragraph 27, on page 44, he will see that the qualifications are alternate qualifications.

Rao Bahadur Sir Krishnama Chari.]  
Past members.

Begum Shah Nawaz.

7767. Secretary of State, you are aware of the strong objection which almost all the women of India have taken to an indirect election to the Federal Assembly, of there being seats being filled by the Provincial Legisla-

tures in the Federal Assembly. May we know why this is being forced on them, in spite of their repeated protests to the contrary?—We have had different views expressed, and, as far as I can remember, I would not say that the view of the women from India has been unanimous on the subject.

7768. There are eight Memoranda submitted to this Committee and in all these Memoranda women are asking for direct election to the Federal Assembly?—The Committee and the Delegates will at once see the complexity and the magnitude of the problem of direct election of that kind. I suppose then the constituencies would be of an enormous size, would not they?

7769. Would it not be possible for the Government to reserve one seat out of the total number for one woman to be returned?—It would be a prodigious constituency, would it not? It would be a constituency, perhaps of a whole Province.

7770. There would not be any need of having one constituency of the whole Province if, out of the total seats for the constituency, in a given number one was reserved for one woman to be returned?—I am not sure whether the women in the other constituencies would accept an arrangement of that kind.

Sardar Buta Singh.

7771. One question from Sir Malcolm Hailey, with your permission, Sir Austen. Sir Malcolm Hailey, an Act was passed which was called the Gurdwana Act during your time in the Punjab?—(Sir Malcolm Hailey.) Yes, that is so.

7772. And under that Act women have been given an equal right to vote at the poll, under the Gurdwana Act. Is that a fact?—Yes, that is so.

7773. And there is no such law that the women are required to make application under that Act in order to become voters?—That is so.

7774. And I think you would generally agree with me that that system has worked so far very well; that the women have gone to the poll in very large numbers during these Gurdwana elections and no difficulty has occurred

such as is contemplated under the present White Paper proposals?—Yes, I would agree to that fact as a fact, but, of course, the vote is limited to Sikh women, and none of us have ever felt the particular difficulty in regard to the Sikh women that has arisen in regard to some other classes. Moreover, there is no regular electoral roll. The Gurdwana voting is rather a loose arrangement. It has not involved any very precise procedure of preparation of a roll. I have never heard of such a thing as an objection brought against any person for voting without being entitled to do so. It is a very loose, popular kind of system intended to get representatives for a particular purpose, which does not extend outside the community itself.

7775. But if I may tell you that after that Act, in this very year at one particular place more than 200 objections were taken, would you take it from me that the people are taking great interest as time moves on?—Yes, of course, I accept that fact. It is subsequent to my time. When I knew the case, it was, as I say, a very loose and informal kind of voting.

7776. A question on another point, with your permission. You have got great experience of the Sikh community in your Province, and I take it from you—I want to ask whether it is a fact, because some questions were put here about the contact of the members with the constituencies, is it, or is it not, a fact that amongst the Sikhs there is a great deal of contact between the members and the voters, and there are various ways in which that contact is maintained. That is to say, there are different groups in the districts and the member goes to them at a particular time, and that contact is maintained on different occasions, religious meetings, and also resolutions are passed, and, in that way, they send in their grievances both to the member as well as to the head of the Province?—Yes. I think there is a fairly close touch between Sikh representatives and their electorate, but the touch is mainly, I think, confined to those questions, partly religious and largely communal, in which the Sikhs themselves have taken the greatest interest.

L106RO

7777. With your permission, and also on the economic question as well, during recent times, fall of prices and that sort of thing, affects everybody there, and we are constantly being worried that the land revenues are excessive and the people are taking much interest in all these things. The prices have gone down; they are agitating over such questions; and in that way contact is also maintained, not only on religious questions?—Yes; of late I would include that range of questions in those in which there has been a pretty close contact between the representative and the electorate; there always has been a great solidarity among the Sikhs, and very much stronger political organisation than among many other communities in the Punjab.

7778. I want to put one question to the Secretary of State, and this is my last question, and it is this: Is it the fact that during the Great War the Sikh community rendered, I should say, the greatest possible assistance to the Empire?—(Sir Samuel Hoare.) I think we should all agree that there was no community in India that rendered us greater service, and time after time we have expressed our great gratitude to the Sikh community.

7779. Arising out of that question, is it the fact that during the second Round Table Conference a pact was entered into here, although the Sikhs did not join that pact, but still the Muhammadans, I think, the community in my Province, Christians, Anglo-Indians and others very kindly set apart 20 per cent. of the seats to the Sikhs. I do not want to open that question, whatever it is that has been decided, but I wish to protest against what probably is the reason for the Muhammadan community agreeing that we should get 20 per cent., and in the Award we were given only 17 and a little more?—I am afraid agreement was not reached. We all tried very hard to reach it, and we went on day after day and night after night trying to reach it. I wish very much that agreement had been reached, and then it would have been quite unnecessary for the Government to intervene at all.

7780. I would make this request to the Secretary of State, that although this award finishes as regards the Provincial

Legislatures, still there is some hope as regards the Central Legislature, taking the state and the importance of my community, which is in the Punjab, into consideration, we will be a little more favourably treated?—If I said a little bit more favourably treated, it would imply that our decision is an unjust decision, and I could not admit that fact. What I will say is that we must take into account the rights of a great community like the Sikhs, and we certainly shall not ignore them when we come to make up the details for the representation in the two Chambers of the Federal Legislature.

*Mr. Zafrulla Khan.*

7781. May I call your attention to paragraph 12 of the Proposals at page 40?—Yes.

7782. That contemplates that the Governor-General will have authority to appoint, if he so chooses, as many as three Counsellors?—Yes.

7783. Of course, he may appoint less?—Yes.

7784. Could you inform the Committee and the Delegates, if you can at the present moment, as to what sort of Portfolios these three Counsellors might hold? If you have not made up your mind on that, I shall not press you?—We had in mind principally, of course, the Reserved Departments. We had in mind Defence, Foreign Affairs and the Ecclesiastical Department.

7785. That is clear from the paragraph itself. My question was rather on this: Supposing the Governor-General exercises the power given to him here, and appoints as many as three Counsellors, what sort of division of these subjects to each Portfolios do you contemplate. Why should it be necessary? He may have a necessity on some occasion to appoint three Counsellors?—I think he would certainly require a Counsellor for Defence; I think he would require a Counsellor for Foreign Affairs. As to the small Ecclesiastical Department, that is a different question; it would depend very much upon whether or not he could fit in what would be a very small administrative task into one or other of the Departments.

7786. Then am I to understand that it is not contemplated that a Counsellor would be required for anything beyond the Defence, Foreign Affairs and the Ecclesiastical Departments?—There is no intention to go beyond those three Departments.

*Lord Eustace Percy.*

7787. Does not the question of the Advocate-General arise for consideration there?—I have excluded the question of the Advocate-General, because we have not discussed it, and I was not entirely clear in my own mind as to what it was that was contemplated, namely, what kind of status the Advocate-General would have; but making that exclusion, I would give the answer I have given to Mr. Zafrulla Khan.

*Mr. Zafrulla Khan.]* I was myself not excluding that question.

*Mr. M. R. Jayaker.*

7788. Will the Secretary of State consider the possibility or the desirability, in case there is such an Office, of making that Office dependent upon Party considerations, as in England; he will be corresponding to the Attorney-General, and the Attorney-General is appointed by the Government of the day. Will he make a similar provision in the Indian Constitution if he has an Advocate-General for the Federal Government?—I would much rather not express a final opinion, but what I would say is, I have gathered the impression from the questions that have been asked this morning that what was in the minds of the questioners was not so much a Party Minister as a non-Party impartial man, namely, the Attorney-General, not in his capacity as a Member of a Party Government, but the Attorney-General in his quasi-judicial position.

7789. But he must have a Court before which he practises; his Office cannot be in the air. Would you make him an Advocate-General of the Federal Court?—I would like to hear more about the proposal; it is a comparatively new proposal to me, and I own I have not considered it in its implications.

*Sir Tej Bahadur Sapru.*

7790. May I present you with another aspect of the question? In certain Pro-

vinces of India there is no Advocate-General. Take, for instance, the United Provinces and the Punjab : the office is held by a lawyer who is called the Government Advocate. He is not appointed by the Crown, and he has not got exactly those functions to perform which the Advocate-General has to perform. In the case of Provinces where there is no Advocate-General, do you contemplate that the Office of the Government Advocate should be a Party office or that the Government Advocate should be appointed irrespective of the Party?—I have been considering the appointment in the light of this morning's discussion as a non-Party impartial appointment, but I said in answer to the first questions that were asked me about it that it was to me a comparatively new proposal, and I would very much rather consider it in its various aspects before I gave a final opinion upon it.

Sir Tej Bahadur Sapru.] And the Government of the day at the Centre is entitled to have the advice of a lawyer in whom it has confidence.

Marquess of Reading.

7791. May I put one question in order to save the position with the Secretary of State. It is not to be assumed that because we have not intervened in this matter we have no view. It is really a quite important question as put in that way?—I was assuming that there would probably be legitimate differences of opinion, and that I had better not even pretend to express a final opinion until I had heard these differences of opinion in greater detail.

Mr. M. R. Jayaker.

7792. My object in asking the question was to suggest to the Secretary of State that it was a point worthy of being considered?—Yes, I would certainly agree.

Sir C. P. Ramaswami Aiyar.

7793. In the consideration of the question, would the Secretary of State bear in mind also the distinction that may be drawn between what may be called a Federal officer in the nature of an Attorney-General advising the Federation, and an officer who might be available to the Viceroy or the Governor-General in

relation to the topics which I indicated this morning?—Yes, I think we ought to take those points into account.

Sir A. P. Patro.

7794. May I ask at the same time that the whole condition of the country and of the taxpayer may be considered before making the appointments?—Certainly, I agree.

Mr. Zafrulla Khan.

7795. May I draw your attention to paragraph 13 on the same page, the last sentence. Is it contemplated, as you explained in the case of the Provinces, that the persons appointed Ministers at the Centre, even the person who is appointed Chief Minister, may be drawn from among the small number of nominated Members which you propose with regard to the Upper Federal Chamber?—I was contemplating making no distinction between one Member and another in either Chamber; I was contemplating treating them all alike. That would mean that a nominated Member would be eligible for a post in the Ministry, just as a Peer would be eligible here.

7796. With, of course, this difference, which is perfectly obvious, that if a nominated member is not satisfactory in one Session to the Governor-General he may not be nominated again, and a peer cannot be excluded simply as a result of his conduct in the House of Lords, or his voting in the House of Lords one way or the other?—I was contemplating that the nomination, if there is this small nomination in the Upper Chamber, would be for a substantial period of years—a sufficient period of years to give the nominated member independence.

Mr. Zafrulla Khan.] While I am on that subject I might anticipate paragraph 26.

Dr. B. R. Ambedkar.] Would not the nominated member hold office during the term of the Legislature?

Mr. Zafrulla Khan.

7797. Yes?—Yes, but Mr. Zafrulla Khan raised another issue, namely, whether the fact that this Minister had been nominated by the Viceroy might not compromise his independence? You

could save his independence by making the nomination for a period of time.

*Mr. N. M. Joshi.*

7798. Might I ask a question, Mr. Chairman? You are now replying as to whether a nominated member may be a Minister or not. My question is whether a man who is appointed Minister, and fails to secure election could be made a nominated member?—Yes, just as it has often happened here. Anyway it has sometimes happened here that a man fails to be elected a member of the House of Commons, and he is subsequently made a peer.

*Mr. Zafrulla Khan.*

7799. While I am on that topic, as I said I may anticipate paragraph 26, page 43, only with regard to this point. In view of the fact that the Upper Federal Chamber will be indirectly elected, also that the qualifications for candidates are likely to be fairly high, and it will not be like an ordinary election discouraging people of the elder statesman type from standing the racket of an ordinary election, what is the particular necessity of adding these 10 members to the Upper Federal Chamber? What kind of percentage is it contemplated would fail to secure election which would be so essential to the working of the Constitution itself: 10 members must be nominated to the Upper Chamber?—I think my main argument for a small number of nominated members of this kind is based upon the experience of other countries where it has been found useful to bring in Ministers and members of the Second Chamber who would not be able to get there by the ordinary channel of election. We here have an opportunity of that kind in the existence of the House of Lords, and I think it would be a wise act to have some such power of that kind under the Indian Constitution, of a limited extent, I agree. The number we propose is a very small one, but it is just a sufficient number to enable the Governor-General, or, indeed, the Federal Prime Minister, first of all, to have a rather freer choice, and, secondly, to redress questions of balance that may need redressing. That is our

argument for this small number of nominated members.

7800. May I put this to you as a suggestion, perhaps. I do not want to argue this question: That this number, although small, is likely to arouse suspicion, firstly, on the ground that it would enable the Governor-General to smuggle in people whom he wants to appoint Ministers, and under Indian conditions it would be quite possible to form the Cabinet first and to obtain for them a majority in the Chamber afterwards. Secondly, there would be apprehensions on the ground that various interests that may be placed in the apportionment made of the elective seats may become unbalanced rather as a result of this power of nomination, and, having regard to these two considerations, I suggest this would be rather an unstabilising factor than a stabilising factor?—We must obviously take into account apprehensions of that kind when they are raised. My own view is that under our proposals they are unlikely to be realised. We are making the proposal with neither of these contingencies in our minds at all.

7801. Secretary of State, with regard to these 10 members, do you, or do you not contemplate that the Governor-General will apportion them between British India and the Indian States in accordance with the ratio that might eventually be fixed with regard to their representation in the Upper Chamber?—Speaking generally, yes.

7802. Then do you, or do you not, contemplate that with regard to British India he will apportion them among the communities in the ratios which may be fixed eventually for the Upper Chamber?—I think there, again, my general answer would be, yes.

7803. I will leave it at that, with the suggestion that it would be rather difficult for him under those circumstances, on the one hand, to be left with free choice, and if he did not stick to those proportions then it would be, on the other hand, a disturbance of the balance, I leave that for your consideration. I do not want you to reply to it. Now paragraph 24 on page 43. Before we go on, with the Chairman's permission, I will refer to paragraph 14 at the bottom

of page 40. Again I am putting this to you. We can ourselves see, without asking you, that it will be possible for the Governor-General in forming his Ministry to allot a portfolio dealing with entirely Central subjects to a States Member of the Cabinet; but the question is this: Have you a hope, are you looking forward to the fact, that the Governor-General would be so able to arrange the division of portfolios that that would not happen?—I certainly would hope so.

Mr. Zafrulla Khan.] Now paragraph 24 on page 43.

Sir P. Pattani.

7804. Does that mean that it will be the Governor-General who will assign the portfolios, or will it be the Government of India, including the Ministries, that will assign portfolios?—We did discuss that question at great length about a week ago and I think, if Sir Prabhaskar will look at the answers I gave, he will see I did make my position quite clear.

Mr. Zafrulla Khan.

7805. With regard to paragraph 24, again I am merely drawing your attention to the suggestion that in view of the fact that the Upper Chamber will be elected by the Provincial Legislatures, is not it worth considering that, instead of fixing a date after which, unless sooner dissolved the Council of State would automatically be dissolved, as soon as the Provincial Legislature is dissolved the new Provincial Legislature may be entitled to elect its quota to the Upper Chamber, the old members continuing during the interregnum, as it were, while the elections are continuing. In that way the Senate will always continue to represent, or rather reflect, the state of the parties, as it were, in the local Legislatures?—There is a variety of ways of dealing with the election of two Chambers, and Members of the Committee will remember that the Statutory Commission deals in some detail with the problem and sets out the arguments for and against most of the obvious alternatives. I will consider the point Mr. Zafrulla Khan has raised. Off-hand, it would occur to me that, in the first place, his proposal would make the

Second Chamber definitely less stable. Secondly, I do not off-hand see how his proposal would fit in with the arrangements for the representatives from the States. It seemed to me, as he explained it just now, that the result of it would be that the States representatives would go on for ever.

7806. I see that objection. Paragraph 26, apart from nominations to which I have already alluded, brings us to the size of the Chambers, and I do not want to take up the time of the Committee putting to you different considerations that have already been put, but may I put to you with regard to the size one further consideration which might be kept in view when the final numbers are to be settled and it is this: Between the various conflicting views I have no doubt one consideration which has helped to keep the numbers lower than suggested by some members was the consideration of the effectiveness and the manageability of the Chambers?—Yes.

7807. Those considerations would be the same to-day as they might be 25 years hence. With regard to administrative machinery for elections and so on, there might be changes, but surely a very large Chamber which is not manageable to-day would not be manageable 25 years hence. The consideration I want to put before you is this. We certainly contemplate further advances in the franchise, and do not you think if you started now with the maximum number which would still retain effectiveness and efficiency to-day, 25 years hence you might be compelled by the sheer weight of numbers added to the electors to enlarge the Chambers still further and to go beyond the limit which effectiveness suggests? Would not it, therefore, be possible to start with smaller numbers to-day and to go on expanding them as we make advances in the franchise?—I think it certainly would be possible, but here again it is a question of reconciling the different points of view.

7808. Yes; as I said I am merely putting one consideration, which might be considered along with others?—Certainly; and I think that is a factor the Committee must take into account, but it is one of the factors that enter into



this big problem as to whether the Chambers should be big or small and how they should be constituted.

7809. I rather thought attention was not being paid to what might happen, say, 25 or 30 years hence?—Yes.

7810. With regard to another aspect of the Upper Federal Chamber, may I draw your attention to page 11 of the White Paper?—Yes.

7811. It is paragraph 18 in the Introduction. At page 11, the last sentence, the White Paper says that "if it is considered that adoption of proportional representation in the manner proposed makes insufficient provision for this end," that is to say, to secure to the Muslims one-third representation in the Upper Chamber—"modification of the proposals should be made to meet the object in view." The question I want to put to you is this: Have you or have your advisers considered the matter further, and are you of the opinion that by the method proposed the Muslims will or will not secure their one-third representation in the Upper Chamber?—We have considered very carefully this point and we are satisfied that under the proposals in the White Paper the Muslim Community would not obtain their full  $33\frac{1}{3}$  per cent., representation in the Upper House. With your permission, Sir Austen, I will amplify that answer a little bit further. One-third of the British India seats in the Upper House would be 50 seats. Calculations go to show that if the voting in the Provincial Councils for the elections to the Federal Upper House went on purely communal lines, that is to say, if every elector in using first and succeeding preferences gave priority to to all candidates of his own community, the result would be, assuming the Provincial Legislatures to be composed in the manner proposed in the White Paper, that the Muslims would secure 45 seats, with a strong probability, though not an absolute certainty, of one more. They would therefore be four seats short of the one-third which the Government has promised. It appears necessary, therefore, to make some slight modification. It is obviously desirable that such modification should be of a kind to disturb as little as possible the general scheme for electing members of the Council of

State by proportional representation from the Provincial Legislatures. The following plan seems likely to be the simplest, and without at the moment desiring finally to commit myself to it, I think it is the most promising solution. In Madras, Bombay, the United Provinces, Bihar and the Central Provinces, that is to say, in all the Provinces with more than five seats in the Council of State, with the exception of the Punjab and Bengal, one seat should be allotted in each of these Provinces to be filled by election by the Muslim members of the Provincial Legislature only, all the remaining seats to be filled by proportional representation in the ordinary way as proposed in Appendix I to the White Paper. This should give the Muslims their 50 seats, assuming, of course, that the voting proceeds on purely communal lines.

7812. Secretary of State, is it a fact that under the proposals contained in the White Paper, the Europeans, the Anglo-Indians and the Indian Christians would have the right to elect their own representatives by a system of separate representation, to the Upper Federal Chamber?—Yes, that is so; and the reason is that, with small and, in many cases, very scattered communities, it is difficult to find any better alternative.

7813. Is it a fact that under the present system Muslims have the right to elect their representatives to the Council of State by separate electorates?—Yes.

7814. Are you aware of the very strong sentiments of the Muslim community that that right should not be taken away from them under the new Constitution?—Yes, I think I am aware of the Muslim feeling on the subject. At the same time, Mr. Zafrulla Khan will no doubt keep in mind the course that our discussions have taken over the last two or three years, and I was under the impression that some such arrangement as I have suggested would both conform with those discussions and would also conform with the legitimate demands of the Muslim community.

7815. Secretary of State, under your proposals, now taking the White Paper proposals along with your suggestion made this morning, would not the picture be this: Europeans (Anglo-Indians and

Indian Christians to elect by separate electorates ; other communities to elect by proportional representation ; this will give to the Muslims the major part of their representation ; then the Muslims in certain Provinces to supplement it by a system of separate representation ? —It is an arrangement composed of many differences, I admit, but I do not myself see any other alternative that will not strike much more severely at the foundations upon which we have been holding these discussions in the last two years, and I am anxious, so far as it is possible, to avoid opening out a big new field of controversy.

7816. Secretary of State, may I put one question on this topic while I am on it ? You need not give an answer to it if nothing has been done so far. When you were concluding the Session of the Third Round Table Conference and you made the announcement that so far as the British India share in the Federal Legislature is concerned, Muslims would be secured one-third, you expressed the intention of assisting the satisfactory settlement of the question of representation of Muslims from the Indian States by such means as may be possible. May I ask whether anything has been done in that direction so far ?—I have had many talks with the representatives of some of the States upon the subject and I have impressed upon those representatives in these talks the great importance of holding a fair balance between the communities in any representation that they might send to the Federal Legislature. I have found them, without exception, very sympathetic to the idea, provided it is left to them to arrange it in their own way and provided that we do not do what would be foolish from every point of view, namely, attempt to dictate to them. I feel considerable confidence myself that we should find in the States representation a substantial Muslim representation, and I will go on pressing the importance of that point of view upon the States ; but, as I say, I have found them in all the talks I have had with them very sympathetic with the conception.

Mr. Zafrulla Khan.] I am very glad to hear that. May I call attention to page 93 of the White Paper, the composition

of the Orissa Legislative Assembly, the last item on that page ? I am sure the Committee will recollect, and you will recollect also, that this is an addition to the terms of the Communal Award as announced, because at that time the figures with regard to Orissa had not yet been worked out. It is proposed to give Muslims four out of 60 seats, and the only other minority that is given any seat in the Orissa Legislative Assembly is the Indian Christian community, to whom one seat has been allotted. You will remember that I put those considerations to the Rajah of Khallikote and the Rajah of Parlakamedi when they appeared as witnesses before the Committee, and they both said they would be only too happy to have the representation of Muslims in this Legislative Assembly raised from four to six—

Sir Austen Chamberlain.] I beg your pardon, but are we not now dealing with the Federation rather than with the individual Provincial Assemblies ?

Mr. Zafrulla Khan.] I asked some time ago whether on the general question of the franchise and so on we were not at liberty to put questions.

Sir Austen Chamberlain.] I hope only where it bears directly upon the Federal Legislature.

Mr. Zafrulla Khan.

7817. If I might, with your permission, put this question, I would not have to ask for the opportunity to put further questions at all ?—I think I can deal with it in a minute or two. Will you put your question again, Mr. Zafrulla Khan ?

7818. Without going into preliminaries, may I say you will recollect that I put questions to the Rajah of Khallikote and the Rajah of Parlakamedi when they appeared as witnesses before the Committee, and both of them said they would be only too happy to have the representation of Muslims in the Orissa Legislative Assembly raised from four to six in case the total remained at 60, and from four to seven in case the total became 70 ?—Yes.

7819. In view of that expression of opinion, I hope His Majesty's Government will be prepared to reconsider the

allotment of seats for the Muslim representatives?—I have got a note that I had made out of the Orissa percentages; unfortunately, I do not seem to have brought it here this morning. What I will do is to put it in as a paper to the Committee.

*Sir Austen Chamberlain.*

7820. I very much hope that you will not go into this question now; it leads us right away from the subject of discussion. It is the Federation and not the Provincial Legislature in a particular Province that we are considering?—Would you like me or not to finish the answer?

7821. I hope you will not open a discussion on the subject?—May I finish the answer, and then you can stop me, if it looks like opening a discussion. I will put this note in. The point that it makes out, and I think makes out completely clearly, is that the Muslims in the Province of Orissa are getting a higher weightage than any minority in any other Province. I will not go into that point further. Secondly, as to whether it would be possible to add a seat or two to the Council, one has got to remember the reactions of altering figures in other Provinces. What I will undertake to do is to look further into the point and to see whether anything can be done by general agreement, but one has to keep in mind the danger of reactions elsewhere.

*Mr. M. R. Jayaker.*

7822. May I suggest to the Secretary of State, if he is preparing a Note for the use of the Committee, that he might as well point out in that Note what would be the number of seats the Muslims would be entitled to on a strict population basis and what weightage they are getting?—That will be shown in the Note.

*Mr. Zafrulla Khan.*

7823. I will not pursue further what has been said by you, Secretary of State. With regard to paragraph 48, at page 49, I merely want to understand what the position will be. Would it be correct to say that under the Proposals as put forward in paragraph 48, the Lower

House has the right or the power to grant supply and once it grants it, the Government is under no further necessity of getting the assent of the Upper Chamber?—Yes, that is so.

7824. Supposing the Lower Chamber fails to grant supply, then if the Upper Chamber concurs in that rejection or reduction of the grant, the Government cannot obtain that supply under these proposals?—Yes.

7825. But if the Upper Chamber does not, the Lower Chamber rejects or refuses, the Upper Chamber is willing to grant in that case, it is open to the Government to call a Joint Session and the result would be according to the Joint Session?—Yes.

7826. One last question to Sir Malcolm Hailey with regard to certain matters put to him on the franchise. Sir Malcolm, Sir John Kerr told us the other day the average distances to the polling booths in India, and he said not taking into account the sparsely populated area—that would not be in order for this purpose—the average distance to the polling booth would work out at between five to seven miles. You are aware that the present electoral rules forbid a candidate from providing conveyances for the voters to the polling booths, that being so, do you think women in the rural areas would be expected to walk five to seven miles to the polling booth to record a vote and walk again to their homes and miss a day's work in order to vote?—(Sir Malcolm Hailey.) I think that there are women who would do so, when you realise that their husbands will be going to the poll and that normally they will accompany them there. I think, as a matter of fact, the extent to which women will vote in the rural areas will depend very largely on the amount of pressure that a candidate can through his friends apply to the voter. As to the supply of conveyances, there is probably no rule in the world that has been broken more liberally than that particular rule, for it is well known that the supply of conveyances in India is universal, and you cannot get your voters unless you do supply them, or your friends do it for you.

Begum Shah Nawaz.] I requested this morning if I could put only four questions regarding the franchise to the Sec-

retary of State and I was told it was not possible, and I find many of the Delegates are putting questions on the franchise in these discussions.

Sir *Austen Chamberlain*.] I have tried my best to keep the discussion to the purpose it was intended to serve. I have not succeeded very well, but, if there is time, I will come back to the questions which the Begum Shah Nawaz desires to put.

Sir *Hari Singh Gour*.] What the Begum was saying was that so many members have been allowed to break the rule. May she be permitted to put the four questions she has in mind?

Sir *Austen Chamberlain*.] I said I would come back to her, if I could find time, but there are a good many members who, I think, have put no questions so far on the subject we are supposed to be discussing.

Dr. *Shafa'at Ahmad Khan*.

7827. Sir Samuel Hoare, in your last speech in the Round Table Conference last year, you said that the Muslim community should have a representation of  $33\frac{1}{3}$  per cent. of the British seats in the Federal Chamber. In the Lower House, according to the scheme of the White Paper, the Muhammadans have got 82 seats out of 250. This is not exactly  $33\frac{1}{3}$ ?—I was under the impression that there was no question about the Lower House at all; it was  $33\frac{1}{3}$ . It was worked out very carefully.

7828. The number of seats assigned to the Muslims is not  $33\frac{1}{3}$  of 250 seats in the Lower House?—It is as near as one can mathematically get it, is it not?

7829. I think it is one more according to the same proportion?—Dr. Shafa'at will remember there are the special seats to be taken into account too, and the likelihood of the Muslims winning, whatever may be the number of them.

7830. But I think the principle of representation has been that you take the total seats and get your proportion out of that first. So far as the special constituencies are concerned, they are not intended really for communal representation at all?—I do not think I could go so far as to say that. I think one has got to take into account the way in which

they are likely to go. Obviously, one cannot make an accurate prophecy until one knows exactly what the constituencies will be, but I think Dr. Shafa'at and anybody in the Room who has studied this question, could make a pretty good guess as to the way some of them will go.

7831. But my point is this, Sir Samuel, that if any Muslims are elected from the special constituencies, they will be having regard to the advantages of special interests, not particularly to the advantage of Muslims?—I do not think I would admit that. I would have thought they would still have regarded themselves as a part of the Muslim community.

7832. I think an answer that you made makes it absolutely clear that  $33\frac{1}{3}$  per cent. of the seats were to be of the entire British-India seats in the Lower House?—The point is new to me. I have always assumed that everyone was satisfied with this representation of the Lower House.

7833. What I was pointing out was that at least according to the proportion you agreed to last year in the Round Table Conference, we ought to have one more—83. That is not quite  $33\frac{1}{3}$ ?—One cannot divide the seats of this kind and the special seats into entirely watertight compartments; one has got to take them into account as well, and I am convinced that under our proposals there is no risk whatever to be run by the Muslim community; they will get their  $33\frac{1}{3}$  per cent.

7834. I hope Sir Samuel will take this into account at a subsequent stage of the discussions?—Certainly.

7835. Then, Mr. Chairman, I go on to my next topic. May I take it, that in the Treaties of Accession which the States will sign it will be laid down that if they wish to enter the Federation they must make all the subjects from 1 to 48 and accept them as Federal subjects, or will there be considerable variations in those subjects?—We contemplate that 1 to 48 will be the normal field over which the States will surrender their powers. The actual details of the Treaties must be considered each on its own merits, always with this reservation in mind, that if a State attempts to make reservations that would make its entry of no value to the Federation or

first of all, administrative difficulties, and, secondly, the difficulties of numbers. Some of those proposals, whilst looking as if they kept the numbers at about the figure of the Lothian Committee numbers, really add very large numbers to that figure. But I would prefer to withhold my opinion until we have had the women's evidence.

7852. We, the women of India, are not enamoured of one qualification, or the other, but all that we wish to know from you, Sir Samuel, is this, that when it has been possible for His Majesty's Government to find a solution for such a difficult problem as the Communal Award, why is it not possible for the best brains in England to find some feasible qualifications which would give the women of India the voting strength of at least one crore and a-half?—I am glad to think now that we have got the best brains on the Joint Select Committee, and I look to them giving me a very great deal of help on this particular question.

Sir Tej Bahadur Sapru.] I take it I am now at liberty to put questions with regard to the Federation?

Sir Austen Chamberlain.] Yes.

Sir Tej Bahadur Sapru.

7853. Sir Samuel, will you please tell us what your view is on the question of lent officers serving in the Indian States being nominated by the Indian States into the Federal Chambers; whether they are British, or whether they are Indian, does not matter for the purposes of my question?—I have never contemplated that those would be the kind of officials that the Princes would send as their representatives. At the same time I have always found a great difficulty in attempting to preclude certain appointments when the choice does rest with the Princes themselves.

7854. Am I right in thinking that your expectation is that it will not be from that class of officers that the Princes would ordinarily send up their representatives?—Yes.

7855. I will not trouble you any more with regard to that question. With regard to a Money Bill could you tell us roughly, without being very precise about the legal language, what is it that you mean by it in Proposal 38 of the White

Paper?—To put it into a rough and simple phrase "Bills for taxation."

Lord Rankeillour.

7856. Or loans?—I would like to consider the question of loans. I am not quite clear as to the exact answer.

Sir Tej Bahadur Sapru.

7857. Perhaps you might explain whether any loans are raised in India by any Bills at the present moment? I do not think so?—(Sir Malcolm Hailey.) No, we do not have loan Bills.

7858. I thought so. If you will kindly turn to Proposal 38 you say there: "Bills other than Money Bills, which will be initiated in the Assembly." Would you kindly explain to me what is it exactly that is intended to be conveyed by the words "initiated in the Assembly"?—(Sir Samuel Hoare.) Simply introduced in the Assembly.

7859. That is to say, according to this clause a taxation Bill can never be introduced into the Upper Chamber?—That is so, I think.

Sir Austen Chamberlain.] To get that clear, would you allow me to put one question?

Sir Tej Bahadur Sapru.] Yes.

Sir Austen Chamberlain.] Must not that be subject to the qualification that, if a Bill of this character has been introduced into and rejected by the Assembly it is within the power of the Government to reintroduce it in the Council of State, and, if passed by the Council of State, to demand a Joint Session upon it?

Sir Tej Bahadur Sapru.] So far as that is concerned I do not find any reference to that in the White Paper.

Sir Austen Chamberlain.

7860. I only want to get it clear?—Yes, I think that is so.

Sir Tej Bahadur Sapru.] If you say in answer to Sir Austen's question that that is so, will you please point out under which provision of the White Paper you bring that in?

Mr. M. R. Jayaker.

7861. Does it fall within Proposal No. 41?—I think it would arise out of Pro-

posal No. 41, but I quite agree it is not clearly apparent.

*Sir Tej Bahadur Sapru.*

7862. That is what I wanted to point out. May I say to you that Proposal No. 41 does not contemplate the introduction of a Bill in the Upper House when it has been rejected in the Lower House. It deals with a different stage?—Yes.

7863. Lord Rankeillour pointed out to you this morning that Proposal No. 41 expressly refers to Bills?—Yes.

7864. Therefore, it seems to me that under Proposal No. 41 you could not have a Joint Session when there was a conflict between the two Houses in any matter which was not covered by a Bill. I am applying myself to the language of the clause?—Yes.

Marquess of Lothian.] Does not Proposal 48 cover your point?

*Sir Tej Bahadur Sapru.*

7865. No. I will come to that immediately afterwards. In point of fact the provisions for a Joint Session in several of the Dominion Constitutions relate to Bills?—Yes.

7866. Now will you pass on kindly to Proposal No. 48?—Yes.

7867. Proposal No. 48, as I read it, only relates to demands?—Yes.

7868. That has nothing to do with the Money Bill. The Money Bill follows that?—Yes.

7869. Therefore under Proposal No. 48, is it your view that if a demand has been reduced or rejected by the Assembly it may be brought before a Joint Session of both Chambers for final determination?—Yes.

7870. But it could not be taken up to the Second Chamber by itself. The moment that stage is reached you will have to have a joint Session of the two Houses?—No, the Government can introduce it in the Second Chamber.

7871. That is exactly what I want to know. Under what Proposal. Neither under Proposal 41 nor under Proposal 48 does it seem to me that the Government could introduce it. All that the Government could do is to call for a Joint

Session?—If it is not clear I am prepared to admit it should be made clearer. We do contemplate a provision of that kind.

7872. Correct me if I am wrong. I am not expressing any opinion, but, as the language of the White Paper stands, I think it is a loose way of saying that the powers of the two Houses are co-equal. They are not co-equal as the language of this White Paper stands?—I think there may be a great deal of substance in what Sir Tej has just said. Obviously we are not at the stage when these provisions are being carefully drafted in an Act of Parliament. We must take those points into account.

7873. It must not be understood from my questions that I am favouring co-equal powers?—No.

Sir Hari Singh Gour.] May I point out it is implicit in Proposal No. 38. The very word "initiated" means it was the originating Chamber, and where the Assembly has rejected it under the very terms of Proposal 38, it may be introduced in the other Chamber, because the process of initiation is completed by the first introduction, and its rejection satisfies the word "initiated."

Dr. B. R. Ambedkar.] That deals with Bills other than Money Bills.

Sir Tej Bahadur Sapru.] I am dealing with Money Bills.

Sir Austen Chamberlain.] Secretary of State, you dealt with this point on an earlier day. I am not quite certain whether all the answers of to-day are exactly on all fours with the answers which you gave on the earlier occasion. Would you mind looking at your answers and, if necessary, supplying us with a Memorandum putting the exact position before us?

*Sir Tej Bahadur Sapru.*

7874. That would be better?—I am much obliged. I am afraid with these very technical questions it is difficult very often to follow exactly the questions that are raised. I will put in a Memorandum on this.

*Sir Akbar Hydari.*

7875. In this connection I hope you will bear in mind the consistent position of the Indian States that the powers of

both the Legislatures should be equal ?—Yes.

Sir *Akbar Hydari*.] And simply with regard to the initiation, but not the further prosecution and discussion of the Money Bill ; there is an exception.

Sir *Tej Bahadur Sapru*.

7876. With reference to the High Commissioner, do you want to assimilate the position to that in Australia and the Dominions, and it is for that you have omitted all reference to the High Commissioner ? The Dominion Constitution made no reference to the High Commissioner. The Government of India Act does make a reference to him, and the White Paper omits all reference to the High Commissioner ?—I had not thought upon this point. I will look into it, but I think our wish generally was that the position of the High Commissioner should resemble the general position of High Commissioners in London.

7877. With regard to the Auditor-General, do you wish to retain the present provisions in the Government of India Act, or do you propose that there must be an independent Auditor-General appointed in India, and that all the money spent in England or in India should be laid before the Auditor-General in India, and the Indian Legislature ?—I would say here again I do not feel able this morning to give a final answer.

7878. You will kindly take note of that question ?—Yes.

7879. Will you kindly turn to Proposal No. 122. I suggest to you under Proposal No. 122 any person coming from any one of the Dominions, which may be treating our Indian Nationals there unfairly, will be entitled to all the benefits conferred by Section 122, and that is not what we agreed to ?—You can stop him entering.

Sir *Tej Bahadur Sapru*.] What we agreed to last year was that there must be complete reciprocity between Indians and men going from England to carry on a business, trade, or profession, because, so far as England is concerned, it does not discriminate between our nationals, but take, for instance, the case of South Africa, or any other Dominion. Why should we be prepared to give them the benefit of this ?

Sir *Austen Chamberlain*.] Does not this come under another of our headings ?

Sir *Tej Bahadur Sapru*.

7880. That will be one of the functions of the Federation ?—I will keep in mind what Sir Tej has said. I know his view, and I am prepared to argue the position in greater detail some other day.

7881. Then I will not put any questions with regard to the financial adviser because you will deal with it probably under another head ?—In the financial discussion.

Sir *Tej Bahadur Sapru*.] Am I at liberty to ask any questions with regard to the Reserved Departments under the Federation ?

Sir *Austen Chamberlain*.] No, I think not.

Sir *Tej Bahadur Sapru*.

7882. With regard to the Reserved Department I understand your suggestion is that the Governor-General shall be empowered to appoint not more than three Counsellors one of whom would necessarily be in charge of the Army Department ?—Yes.

7883. With regard to the Army Budget, will you kindly explain what exactly is the procedure that you provide for ?—Will there be any discussion between the Federal Ministers and the Member in charge of Defence or any other representatives of the Governor-General, and, if so, with what object ? Will they try to arrive at a settlement, or will they simply exchange files between themselves ?—I hope very much that not only will they try to arrive at a settlement, but they will have close and intimate discussions together before the Budget is introduced. I am assuming that before the Budget is introduced questions connected with it would be discussed, of course, at the discretion of the Governor-General, in the Federal Cabinet, and I would very much hope that, although the Governor-General would be solely and exclusively responsible for the expenditure, the Budget will have the full support of the Federal Government behind it.

Lord *Rankeillour*.] Although I have no wish in the world to prevent these questions being answered I assume the fact of their being put now will not prevent

questions being put on the same lines when we come to the questions of finance.

Sir Austen Chamberlain.] No.

Sir Tej Bahadur Sapru.

7884. If the Federal Ministers and the Counsellors of the Governor-General cannot come to an agreement with regard to the Army Budget, then I assume that your view is that the Governor-General should intervene and give his final decision which would be binding on both sides of the Government?—Certainly. It is the sole discretion of the Governor-General. The Federal Government as such has no responsibility for the expenditure at all, but I hope for close co-operation between the two sides of government in actual practice.

Mr. M. R. Jayakar.

7885. Will the Instrument of Instructions to the Governor-General contain

an indication of this wish of His Majesty's Government?—Yes, and Mr. Jayakar will see in the White Paper that we do make provision for what he has in mind.

Sir Tej Bahadur Sapru.

7886. Sir Samuel, I am reading to you a statement of Lord Irwin when he went back from England to India and I wish to know from you whether His Majesty's Government even now accept that? This is what Lord Irwin said: "I am authorised on behalf of His Majesty's Government to state clearly that in their judgment it is implicit in the declaration of 1917 that the natural issue of India's constitutional progress as there contemplated is the attainment of Dominion status"—I should say certainly so, subject to the declarations that accompanied it at the time.

(After a short adjournment.)

Sir Austen Chamberlain.

7887. Secretary of State, I think it would be convenient to you and to the Committee to complete, as we have very nearly done, the questions about Federation. Sir Akbar Hydari asked to have an opportunity of putting two or three more questions; perhaps we may take them before we proceed to the judicature, in order to close the discussion on Federation?—I think that will be a very good plan, Sir Austen.

Sir Akbar Hydari.

7888. Do you accept in general the recommendation of the Butler Committee in paragraph 58 of their Report, that the relationship of the Crown and the Princes should not in any matter be transferred without their own agreement to a relationship with a new Government in British-India responsible to an Indian Legislature?—Certainly, I agree. I assume that Sir Akbar has in mind when he speaks of a new Government, a new Government responsible to an Indian Legislature?

7889. Yes. Will you please refer to your answers to question 5675, 5684 and 5837? I take it that no change in matters connected with the Constitution

as affecting Indian States is contemplated through changes in the Instrument of Instructions without the consent of the States who have acceded to the Federation?—I will just look at these questions. No change made in the Instrument of Instructions could affect the statutory responsibility of the Governor-General for Defence, whether it be made with or without the consent of the States.

7890. But any change that would be made would be as to whether it did affect or did not affect the statutory position of the States and would be made with the previous knowledge of the State concerned?—Certainly. Sir Akbar will remember that nothing in the Instrument of Instructions could affect the clauses in the Act.

7891. Quite so; I was only having in mind the possibility of gradual and ultimate development to such an extent that the position then existing might lead to something being given in the Instrument of Instructions to make the Governor-General act in a way that we might consider as going beyond the position which has been agreed to now. Take the composition, for instance, of the Indian Army?—Speaking generally, questions of Defence, so far as they concern the States, would be dependent, first of all,



upon the provisions of the Constitution Act, and, secondly, upon the provisions of their own treaties, and nothing either in the Instructions or anywhere else could go behind those two basic factors.

7892. What I was trying to put to you was that there might be alterations in the composition of the Army which primarily would appear to be purely with reference to British-Indian Provinces, but which might have had effect ultimately with regard to the Defence position of the States?—The position would then, I imagine, be very much what the position is to-day. If the Government of India decided to make changes in the disposition of troops that either altered an existing treaty or made a position that was embarrassing to a particular State, the discussion would then have to be between the Crown and the State in the field of paramountcy.

*Sir Hari Singh Gour.*

7893. In which the Federation would be left out?—Certainly; this is the field of paramountcy.

7894. But apart from the field of paramountcy, when the question comes up about the Defence of all India, in which the Federation and the Indian States are equally interested, would not the three parties to the agreement be taken into consultation?—They might very well be taken into consultation, but the only responsible authority is the Governor-General.

*Sir Akbar Hydari.*

7895. I presume, with reference to paragraph 2 of the White Paper, that its phraseology will be governed by what is agreed to ultimately in the Instrument of Accession as to the Constitutional procedure whereby the States will come into the Federation, and the Constitutional position that they will hold in it with regard to Federal subjects?—This position will certainly have to be made clear. I have not formed a final opinion as to the best way in which it should be made clear, but I should be prepared to consider any suggestions that the States might make on the subject.

7896. What I want to say is that, perhaps, the wording in paragraph 2 might have to be slightly altered with

reference to what we agree to as to the form of the Instrument of Accession whereby powers in Federal subjects are transferred to the Federation?—Yes.

7897. There is one point with regard to the method of filling up seats in the Federal Legislature which have been allotted to States who, for the time being, have not acceded to the Federation. You expressed a preference for the alternative of giving additional weightage to those States that had acceded. Is it not desirable to get, as far as possible, the economic interests of the regions of those States which have not acceded emphasised, rather than of States who have already?—The difficulty is to avoid those States having the best of both worlds, namely, keeping out of the Federation and, at the same time, having representation created for them in the Federation.

7898. I do not mean it would be representative of those non-acceding States, but what I do mean is that those States would have particular regional interests, and as distinguished from the regional interests in another part of India. Take, for instance, that the Southern Indian States accede, States near Bengal do not accede: then if you give to these Southern Indian States like Hyderabad or Mysore, which have their economic interests over Bombay, if they are given additional weightage then the Bombay view might be more emphasised than the Calcutta view in economic questions, and, therefore, would it not be desirable to leave this rather to the Governor-General after consulting the Federal Government and any other Parties themselves? I am saying whether it would not sometimes act unfairly to the economic interests of a particular region by weighting too much the votes of the States who are situated in another economic region?—It is, of course, to be remembered that in a case of that kind if a group of States that had stayed out felt that their interests were being prejudiced, that, I should have thought would have been an incentive to them to come in. Further, I see objections to the Governor-General making these appointments rather than the States, at any rate, making the recommendations for the appointments. I think, as soon as the Governor-General makes the appointments, the position

will be very much misrepresented, and over the whole of British India it will be said that under another name we have once again created an official *bloc*.

Sir Akbar Hydari.] Of course, if they take that view of what is required by the interests, I have nothing further to say.

Sir A. P. Patro.

7899. I want to ask just a supplementary question. Do you remember that British-India representatives were opposed to any weightage being given to the Indian States?—It would not be true to say that all representatives of British-India have been opposed to a proposal of that kind; it is perfectly true that some of them have been.

7900. And strong opposition too, at any rate, against the feeling of the Indian States—I think that has been expressed by certain of the representatives of British-India. The problem, however, that faces us and that faces them no less than us, is the problem of bringing the Princes in.

Sir Austen Chamberlain.] Sir Akbar, I hope you will remember that this has interposed between us and the proper business of the afternoon, and will you make your questions as brief as possible?

Sir Akbar Hydari.] Yes. There is only one small matter about which I want to invite the attention of the Chairman, and, perhaps, of the Secretary of State, and that is that the record of my questions the other day does not recall one particular point which I pointed out about the quotation made by Lord Lothian from the Instructions. I am referring to Question No. 7513. He read out the following quotation: "To your Committee His Majesty's Government will look for complete and detailed proposals on which to base the revision of the franchise." Then he read out from the Prime Minister's statement to the effect that: "since upon the detailed proposals must largely depend the size and actual composition of the legislatures, His Majesty's Government hope that your Committee will be in a position in due course, so to frame their proposals as to present a complete and detailed scheme for the composition of each of the Provincial Legislatures", and from that it was that the Committee itself was asked to present detailed and

complete proposals for the revision of the franchise, and also for the composition of the Legislature, but not for its strength I wanted to point that out.

Sir Austen Chamberlain.] That will be clear on the record.

Sir Akbar Hydari.] Thank you.

Sir Austen Chamberlain.

7901. Then, Secretary of State, we now proceed to the consideration of the Judicature, Federal and Supreme Courts and High Courts, proposals 151 to 175. Do you wish to make any statement upon that subject before you are subjected to questions?—Yes, Sir Austen, I would like to make a short introductory statement, for this reason: The proposals in the White Paper, namely, 151 to 175, are not drawn in great detail; there are certain gaps in them that need filling up, and there are certain explanations that need to be made before we begin to discuss them. I would, therefore, ask the Committee to base their discussion upon the short explanation that I will now make in this preliminary statement. If my statement appears in any way to go contrary to any proposals in the White Paper, I hope that Members of the Committee and the Delegates will take my statement as their text rather than the widely drawn chapter, Part IV, in the White Paper. I begin, Sir Austen, by suggesting various heads under which this chapter may, in my view, be most conveniently discussed. Following the order of paragraph 5 of the Memorandum which I have circulated, I propose that we should deal, first of all, with the constitution of the High Courts. Under the proposals in the White Paper, the qualifications of the Judges, their number and their salaries and allowances will all, in effect, be regulated by the Crown in England, since they will be laid down in the Act itself, or regulated by Letters Patent or Orders in Council; and the actual appointment of the Judges will, as before, remain with the Crown, acting on the advice of the Secretary of State. On this main principle, I do not think there is likely to be any difference of opinion. We have, however, proposed certain changes of detail affecting the Constitution of the High Courts as at present laid down in

the Statute or otherwise. These are set out in paragraph 8 of the Memorandum that I have circulated, and I need do no more at the moment than draw attention to them. The next division of the subject would be the jurisdiction of the High Courts, that is, the extent and scope of their competence to determine cases judicially, whether in the Criminal or Civil sphere, and whether original cases or cases presented on appeal. Jurisdiction in this sense is determined by Indian Legislation : thus Indian Acts can, and habitually do, prescribe that particular matters are, or are not, to be subject to appeal to the High Court. The proposals of the White Paper on this matter can be summarised as follows :—Firstly, that the High Courts will have, at the time of the commencement of the Constitution Act, the jurisdiction then vested in them, but that thereafter this jurisdiction will be subject to provisions which may be made from time to time by the Federal Legislature and by Provincial Legislatures within their respective spheres. Paragraph 173 deals with that point. Secondly, that in virtue of various entries in the lists of subjects in Appendix VI, the jurisdiction of the High Courts will be regulated from subject to subject by that Legislature which is competent to legislate generally for that particular subject. I would refer Members of the Committee to List I, Item 63 ; List II, Item 30 ; and List III, Item 1 : For instance, in regard to bankruptcy and insolvency, the Federal Legislature alone will be able to vary the competence of the High Court : The Provincial Legislatures alone will regulate the jurisdiction of the High Court in cases arising out of land tenures and title to land ; while in regard to the great Indian Codes, Criminal and Civil, both Federal and Provincial Legislatures will have concurrent powers, subject to the principles laid down in paragraph 114 of the Proposals. This is, to some extent, an alteration of the position now prevailing, since it has been generally held that a Provincial Legislature has no power by its own legislation to vary the jurisdiction of a High Court, even in regard to a subject on which it can itself legislate, and that this power is confined to the Central Legislature. Our proposals, however, seem to us the

natural corollary to the requirements of Provincial Autonomy and to a statutory demarcation of Legislative powers. The third division of the subject is the general powers and authority of the High Courts as distinct from their strictly judicial authority—that is to say, the powers possessed by the High Courts over such matters as recruitment of the Civil Judiciary, and its day to day control, the enrolment of advocates and the like. These matters have been explained in detail in paragraphs 11 to 13 of the Memorandum. The most important of them, and the one to which the Committee have already given considerable attention, is the control of the Subordinate Judiciary. As has been explained in answers given to the Committee, it is not at present possible to place the Criminal Judiciary under the sole control of the High Courts, as the personnel of the Criminal Magistracy is supplied by men who discharge at the same time a number of administrative and Revenue duties ; and, indeed, in many cases these are their major duties. If, at any time, it should become possible to separate these functions, it might be feasible to give the High Court a control over the Criminal Magistracy similar to that which it now enjoys over the Civil Judiciary. But this separation of functions involves difficulties, financial and otherwise, which will have to be solved by the local Governments in the future. As regards the subordinate Civil Judiciary, their regulation is placed by the Proposals of the White Paper as they stand (List II, Item 28), in the hands of the respective Provincial Legislatures, who would thus be at liberty either to entrust control to the High Court of the Province or to leave it in the hands of the local Government. Under this scheme, it would be open to the local Government, among other things, to prescribe the qualifications which would be requisite for admission to a subordinate judicial service. The discussions of the Committee appear to me to have revealed some apprehension of the consequences of making it possible for Provincial Legislatures to withdraw from the High Courts the measure of control in the matter of appointments at present exercised by them in actual practice. It may indeed be possible that the Committee will eventually decide

that it would be undesirable to give to the Provincial Legislatures the full powers proposed in the White Paper. I have, therefore, considered by what method the preservation of the interest of the High Courts in the recruitment and conduct of the subordinate Civil Judiciary, as explained in the Memorandum, could best be maintained. My suggestion would be to leave to the Provincial Legislatures the general powers which have been proposed in Item 28 of List II of Appendix VI, but, at the same time, to introduce in the Constitution Act a provision which would in one respect override those powers—namely, a provision vesting in the High Courts, as part of their administrative authority, power to select the individuals for appointment to the Civil Judicial Services, to lay down their qualifications, and to exercise over Members of the Service the necessary administrative control. This would be effected by a redraft of the present Section 107 of the Government of India Act. The authority thus conferred on the High Courts would, however, be limited to the purposes defined, and would not, therefore, interfere with the powers of the Local Government, first, to fix the strength and pay of the Service to which the High Court would recruit, and, secondly, to lay down, if they so thought fit, any general requirements as to the composition of Services in respect of representation of classes and communities. The next and last head of the subject is Maintenance, in the sense of the financial provision required for the maintenance of the High Court buildings, for its own establishment and for its incidental contingent expenditure. This question is almost inseparably connected with the wider problem as to whether the administrative control of the High Courts themselves should be in the hands of the Central or of the Provincial Government. This problem has been dealt with so fully in the Memorandum that I have circulated, particularly in paragraph 14 to 21, that it seems to me to be unnecessary to say anything further at this stage by way of general introduction. Sir Austen, having made that preliminary statement, I am proposing, with your approval and with the approval of the Committee, to ask Sir Malcolm Hailey to deal with the

more detailed and technical questions arising from it and to reserve for myself the questions dealing with the broader issues of policy.

*Marquess of Salisbury.*

7902. Sir Austen, I am sure that the Committee will allow me just to say this, that, in the face of the very important statement which has been made by the Secretary of State and which modifies very materially all the papers which we have hitherto had before us, it is not very easy to follow very closely the process of examination, and I hope that my perfunctory questions will be forgiven by the Committee in consequence. I understand that we begin with the appointment and position of the High Court?—Yes.

7903. The Secretary of State has told us, has he not, that the Judges of the High Court will be appointed by the Crown; that is, upon the responsibility of the Secretary of State?—Yes. May I, before I make that answer, apologise to Lord Salisbury for having made a long statement at the opening of this cross-examination which may modify some of his questions. I think, however, he will find, when he reads it, that it does not go as far as he suggested just now in his opening words. It does not substantially modify the foundations of the White Paper proposals.

7904. I am obliged to the Secretary of State, but I am correct, am I not, in saying that the Judges of the High Court are to be appointed by the Crown upon the advice of the Secretary of State?—Yes.

*Marquess of Zetland.*

7905. Is this the Federal High Court?—No, these are the Provincial High Courts. We are not dealing with the Federal Court or with the Supreme Court at this moment.

*Archbishop of Canterbury.*

7906. Do I understand from the Secretary of State that he does not expect us to deal with the Federal Court or the Supreme Court at all now?—I would not like to exclude any issue. My Memorandum dealt with the High Courts and

it was on that account that I was directing my attention, at any rate at the outset, to the High Courts.

Marquess of Salisbury.

7907. I only want to get this clear about the appointment. I understand that hitherto, as a matter of practice, the Judges of the High Court have been appointed after consultation with the Governors. Am I not correct?—(Sir *Malcolm Hailey*.) The usual procedure has always been that the Governor, after, as a general rule, consulting—or as an almost universal rule—the Chief Justice, makes his recommendation personally to the Governor-General and it is in that way that it arrives at the hand of the Secretary of State.

7908. I am much obliged. I want to make quite clear that the Governor will continue to give his advice as heretofore, I suppose, through the Governor-General, is it, or straight to the Secretary of State?—Through the Governor-General, and it is contemplated that he will continue to do so.

7909. In his action in that respect will he act in his discretion, or will he act upon the advice of his Ministers?—As it is a Crown appointment, he will act in his discretion.

7910. I thought that would be the answer, but I want that to be quite clear. The Governor-General, of course, deals with it in the same way. The first question I have to ask is : Am I to understand that the provision in the White Paper is still to prevail that the proportion of barristers who hitherto must go to make up the High Court—I mean, their origin being barristers—is to be abolished?—Yes.

7911. So that the practice hitherto, that a third of the Court must be trained barristers, will no longer necessarily prevail. The whole Court may be vakils?—There will be no proportion laid down at all.

7912. May I ask why the Government have made that change, or propose to make that change?—(Sir *Samuel Hoare*.) This is a question that raises an issue of policy and perhaps I had better deal with it in the first instance.

7913. If you please?—I would begin by saying that it is not a new question

at all. It is not arising out of the White Paper proposals. It is a proposal that has been under discussion for a good many years and five or six years ago it was intended to introduce into Parliament a Bill for the purpose of removing these various restrictive qualifications. The reason for the desire for a change is that it has been found, in practice, extremely difficult to work appointments satisfactorily when there is this hard and fast restriction between three classes of candidates, namely, a definite percentage to be barristers, a definite percentage to be advocates and a definite percentage to be members of the Indian Civil Service. In actual practice now, for some years past, the Governor-General and the Governors have found that conditions of this kind have sometimes compelled them to take men of less good qualifications for the post of a High Court Judge than they would have been able to take if their choice had been free. That is the sole reason of our proposing to withdraw this hard and fast restriction. We should still contemplate that posts would be filled from the three sources of supply, namely, barristers, advocates, and of officials from the I.C.S. or promoted from the subordinate judiciary service, but we feel that, in the interests of sound administration, and with the object of getting the best men to fill a vacant post, it is very difficult to continue to maintain the restrictive conditions that have been in force in the past.

7914. But should I not be accurate in saying that the connection with the British Bar is immensely valued, not only by Europeans but by all those who practise at the Bar in the Indian Bar, to whatever race they belong?—Certainly, and there would be no question whatever of excluding barristers. If a barrister had the best qualifications for an appointment, he certainly should be selected.

7915. But does not the Secretary of State think that at a moment like this it seems to have a very special significance and many people will think a sinister significance that the change is made?—I should hope not. Lord Salisbury will remember that there is no racial distinction in these conditions at all.

7916. No, I know that. It is a question of training, is it not?—It is a question of training. Sir Malcolm Hailey will amplify this answer. (Sir *Malcolm Hailey*.) I think something that fell from Lord Salisbury (I hope I am not wrong) led me to believe that he did not quite appreciate the way in which we look at the qualifications of the pleader—the advocate of the High Court, who is a pleader in India.

7917. A pleader is a vakil, is he?—Yes. I think that all Indian lawyers would agree and also I think all those who have taken part in the High Court work in India, that the qualifications of the Indian pleader are very high indeed. It used to be said that we sent home from India very large numbers of students to the Inns of Court because they were not able to pass our Indian law examinations. I have known many of them, and I am sure I am speaking by the book in saying so, but certainly it remains the fact that of men who have practised in our Indian Courts there are very large numbers indeed who are of the very highest qualifications comparable with those of the barrister class. I only mention that because, if it is merely a question of qualification, I feel it only just to say that the qualifications of the Indian pleader are recognized to be very high indeed.

7918. I am quite sure that is so, and I hope nothing I said would be thought derogatory, but I need not say that I have not asked this question of my own contemptible legal knowledge; but I know that it is felt in the very highest legal circles that it is a very curious and significant fact that at the time when the White Paper is put forward this change should also be proposed?—(Sir *Samuel Hoare*.) I hope nobody will read a sinister interpretation into this proposal at all. There is nothing more in it that what I have just explained. It is a proposal made in the interests of efficiency. It is for the Committee to consider whether the case for efficiency is justified. I believe it is.

7919. Of course, I need not say it carries with it the whole question of the appointment of the Chief Justice. He might also be a pleader. It would follow, would it not?—(Sir *Malcolm Hailey*.) Yes, that would follow.

7920. I think that the next division which the Secretary of State asked us to follow was jurisdiction. As regards the jurisdiction, I understand that that will be now largely subject to the Legislatures—the Federal Legislature in a measure and the Provincial Legislatures in a measure?—The composition of the Court will be laid down entirely by the Constitution Act. It will not be variable by any Indian Legislature.

7921. But as regards this jurisdiction I am sure the Secretary of State will allow me to say that it is difficult to be quite certain of the conclusions to draw from his Memorandum which he circulated. There are many points which are evidently left undecided in it. For example, would he follow this phrase on page 8 of the printed Memorandum: “Nevertheless, the individual powers and authority enjoyed in virtue of their Letters Patent by the High Courts” (I am reading at the very middle of the page) “would be subject to an extent not yet explored to the jurisdiction of Legislatures in India according as they are covered by one entry or another in Lists I, II and III of Appendix VI.” I suppose that means not yet explored by His Majesty’s Government?—I think I might explain that phrase if you would allow me to do so. These three lists have always been put forward as rather illustrative than final, and, when it comes to the final determination of these lists there are certain points affecting jurisdiction which we shall have to consider. For instance, that one particular point that we mention there: The exact effect of the powers given in these three lists as affecting the authority of the High Court in the matter of the Bar. At present the authority of the High Court in the matter of appointing advocates is drawn from its Letters Patent, and, in looking through those three lists, it is not quite clear how far the Provincial Legislatures would, in the future, be able to affect the powers of the High Court in regard to the enrolment of the Bar. It is only in matters of that kind that that phrase applies. The position is that the actual content of the jurisdiction of the High Courts will be determined by the appropriate Legislatures as the subjects in regard to which they legislate fall within Lists I, II or III.

7922. But what, I think, is important for the Committee, if I may say so, to ascertain first is do the Government intend to leave these ambiguities, or are they all going to be settled somehow before the Bill is drafted?—(Sir *Samuel Hoare*.) Certainly they have got to be settled when the Bill is drafted.

7923. At the time the Bill is drafted, of course, but I think it would rather help if we could have heard beforehand a little what the views of the Government were. I understand that the scope of List II (I suppose it is No. 30, but I am not quite sure) is very wide. It would embrace all matters in regard to land, trade, moneylenders, police, prisoners, etc.; it is very wide indeed. Prisoners is particularly wide because am I not right in saying that that would involve the whole question of the liberty of the subject in India?—(Sir *Malcolm Hailey*.) No, it only refers to what I may describe as action taken under our Prisons Act which merely refers to the treatment of prisoners when actually convicted. If I may say so, the effect of allowing legislation by the Province in respect to prisoners would, in this particular respect of which we are speaking, only come in if there were some provision in the Jails Act which allowed an appeal in any particular respect to a High Court.

7924. I am very glad to have this explanation, but I am quite sure that Sir Malcolm will agree that it is difficult to read all that into the word?—I think when the final examination is made (and it will have to be a very technical examination) it will be found that the mere delimitation of subjects in these three lists will clear up any ambiguity which may still exist (and it is no very great ambiguity at that) as regards the powers of the two Legislatures respectively to deal with the jurisdiction of the High Courts. It will be cleared up by the delimitation arrived at in the Lists themselves.

7925. That may be so, but, Sir Malcolm, you will agree that there is an essential ambiguity always attaching to List III, because it is a question of concurrent powers?—If I may say so, the full preparation of that List should do away with any ambiguity as regards the subjects which are concurrent. The term "ambiguity" might perhaps be

applied rather to the fact that it is not quite known which of the two Legislatures will be finally dealing with those particular subjects, but the subjects should be clear.

7926. I am not going to be so silly as to quarrel about phrases with Sir Malcolm?—I hope I was not suggesting that.

7927. But, as I understand, practically under List III comes the whole of Criminal and Civil procedure, or the greater part of it. Is it really suggested by the Government that both sets of Legislatures should have power to modify the Civil and Criminal procedure of India?—Subject to the arrangement proposed in Proposal No. 114 of the White Paper, that is to say, that the Federal law will always prevail unless the Provincial law has been reserved for and received the assent of the Governor-General.

7928. No doubt the poor Governor-General is dragged in, I know, but the fact remains, does it not, that both the two sets of Legislatures are to have power over this Criminal and Civil procedure by which the greatest store is set in India on its stability. Is not that so?—That is so.

7929. It is immensely valuable?—(Sir *Samuel Hoare*.) I am not quite sure with what object Lord Salisbury is asking this question. Is he asking it with a view to proving that it would be better to keep it entirely Federal?

7930. My opinion is of no value. I should certainly have said on the face of it it should be entirely Federal?—If so (I do not want to press him to give a final opinion now upon a question of that kind) he will find it is a much more difficult question than I think he assumes. He will find that it is very difficult to preclude the Provinces from local variations within the wide field of the Criminal law and the Criminal procedure, and if, here and now, he says the whole of that is to be Federal and nothing else, he is really putting a block in the way of any variations of this kind, and he is putting a very formidable obstacle in the way of provincial autonomy.

7931. To me it is an amazing thing, I admit, that a Federal law upon a matter of that kind is to be upset by a

provincial law, even with the leave of the Governor-General.

Lord *Eustace Percy*.] May I ask a question to clear this up? Is it Lord Salisbury's point that a province faced by a grave situation menacing law and order should have no power to pass criminal legislation?

Marquess of *Salisbury*.] No, I was certainly not considering an emergency at all. This is the ordinary routine.

Lord *Eustace Percy*.] I do not know what Lord Salisbury calls an emergency, but there is a state of unrest. Special criminal legislation has to be passed. Does he mean that the province should not be able to pass such a measure to deal with disorder?

Marquess of *Salisbury*.

7932. I am sure it will only upset the proceedings of the Committee if I pose as a witness. Here is the case of a very elaborate and valued code of Criminal and Civil procedure, and it is proposed in the White Paper (and, as I understand, that is maintained in the present statement of the Secretary of State) that this procedure notwithstanding the jurisdiction of the Federal Court may be at any time with the leave of the Governor-General altered fundamentally by a Provincial Legislature, and I ask whether that is the settled policy of His Majesty's Government?—(Sir *Malcolm Hailey*.) Subject, of course, to the restriction to which Lord Salisbury has already called attention, that the Provincial Law must be reserved for and have received the assent of the Governor-General.

7933. It is not merely the Civil and Criminal procedure, but such very difficult subjects as the marriage law and the industrial legislation. They are all in the same position; they are all under List III. Is not that so?—The marriage law certainly.

7934. And industrial legislation?—The regulation of the working of factories, employers' liabilities, Trades Unions; yes, that is the case with all three. (Sir *Samuel Hoare*.) When Lord Salisbury is thinking over this question again, as I hope he will, because it is really a very complicated question, would he also keep in mind the present

state of affairs under which there are local variations carried out by the provincial governments, and with the approval of the Governor-General. This, therefore, is really continuing the existing state of affairs.

7935. I think I have appreciated that, but the Secretary of State will see, will he not, that it makes a great difference whether these matters are matters of pressure of a political majority?—I am not quite sure. I would have thought that in the kind of case Lord Salisbury contemplated, and, assuming that there is this pressure, the pressure will be in opposite directions from the representatives in the Province and the representatives in the Federal Centre. The pressure is not all going to be one way.

7936. You think the Governor-General will, as it were, play off one against the other?—I do not say play off one against the other, but I do say he will not be subjected to pressure only from one side.

Sir *A. P. Patro*.] The Provincial and the Central balances are maintained by this joint list, this concurrent list.

Marquess of *Salisbury*.

7937. I must not press that any further. With regard to the general powers of the High Court and the control over the subordinate Courts; As I understood the Secretary of State in his statement, the control of the High Court over the subordinate judges in civil matters has to be as complete as possible and maintained. Is that so?—Yes.

7938. But over criminal matters it is not so. I do not mean to say that there is any change, but in criminal matters the Magistrates are not now under the control of the High Court, and they will not be under the proposals of the White Paper? (Sir *Malcolm Hailey*.) On what you may describe as the administrative side, that is to say, the control over them as a service, they are under the Executive Government. On the judicial side they are completely under the control of the High Court.

7939. But their careers would be, if I may put it brutally, at the mercy of the Provincial Government?—Yes, it is the Provincial Government which does control their position in the Service.



7940. And their hopes of preferment, and so forth, their prospects of preferment, and so on?—Yes.

Marquess of *Salisbury*.] I need not call the attention of the Committee to the bearing of that upon the question of law and order. It has a direct bearing.

Sir A. P. *Patro*.

7941. How long has this administration been going on?—That state of things to which Lord Salisbury has called attention is due, as explained in the Memorandum, to the union of functions. If at any time it became possible to separate the Provincial Service officers into a judicial branch, and an Executive branch, then it would be possible to bring the Magistracy under the control of the High Court. I explained the other day, in answer to a question, that there were financial and other difficulties in the way of that at present.

Marquess of *Salisbury*.

7942. I am not to take that answer to mean that the Government are open to reconsider that decision?—I think that it must be, if I may say so (it is, perhaps, a question of policy) for the local Governments of the future who will themselves have to find the necessary money for effecting that separation.

7943. Then one last question. I understand that the Secretary of State gave an assurance to the Committee that in respect of maintenance of the equipment of the High Court, all that is required on that head would be safeguarded. I think in the Paper there is a paragraph on page 11, paragraph 18, which says: "As regards maintenance, the proposal is that this should be entirely a Provincial matter, but it is proposed, as already stated, to give the Governor a personal authority to certify after consultation with his Ministers, the amounts which he thinks are required for the expenses of these Courts?"—Yes.

7944. Is that in the White Paper or is that new?—No. That is already in paragraph 98.

7945. At any rate, the Governor is to have a special power to secure proper maintenance for all the expenses of the

Courts: That is so, is it not?—Yes, that is so.

7946. In the first instance, it will be under the Government, but he can intervene, if necessary?—Yes.

7947. And do you think, Sir Malcolm, that in practice he will always be able to intervene effectually?—I think so, Sir, because judging, at all events, by past experience, that is not an item of expenditure about which a Legislature has ever shown any difficulty at all. There has been very seldom any attempt to cut down the expenditure on the judiciary.

7948. I am not quite sure whether that is quite the answer that I expected, because I wonder whether if there was a difficulty, the Governor would be able to intervene effectually?—He would certainly have the full power to do so.

7949. I am sure you must have appreciated that there has always been a doubt in the Committee as to whether he would be able to exercise his power?—I think that is one of the precise points on which he would find no great difficulty in exercising his power, because he would have so much support behind him.

7950. You mean public opinion?—Public opinion, and if I may say so, he would have, I think, behind him all the people, a very large class in India, who are interested in the Judiciary and in the law.

7951. Of course, when we are thinking of safeguards, we are always thinking of the case when the conditions will not be favourable, otherwise safeguards are not wanted. I am suggesting a case where, owing to their decisions, the judges have become very unpopular. Now, in a case of that kind, would this provision give them effectual protection? Of course, their own pay, the pay of the judges of the High Court, does not come under the vote of the Legislature at all.

7952. I agree as to his own pay, that is so; I am thinking of the equipment of the Court—I mean, the subordinate officials of the Court?—Yes. I remember one occasion only on which that has been challenged in a Legislature, partly for communal reasons, but I think I could only say that in my own opinion, if that kind of difficulty came before me as Governor, I should have less trouble in putting that right than I should have in

a great many other cases I could think of, such cases as charges for extra Police, and the like.

7953. I am sometimes doubtful whether so successful a Governor as Sir Malcolm Hailey does not sometimes forget that there may be others who are not quite so successful as himself and have to govern under conditions much less favourable than he has done?—(Sir *Samuel Hoare*.) We surely, have to take into account the general history of affairs for the last 15 years, and until Lord Salisbury has mentioned this terrible contingency, I have never heard anything about it at all.

7954. I can assure the Secretary of State it is not of my own motion that I have suggested it; it is upon advice by very high authority?—I would have thought from my general knowledge of the things, that do stir up trouble in local Legislatures and the things that do not stir up trouble in local Legislatures, this was not the kind of issue that was going to stir up trouble.

Archbishop of *Canterbury*.

7955. Secretary of State, I think you intimated that it would not be convenient for you now to discuss the Supreme Court, but that you would prefer to keep to the Provincial High Court?—I think, your Grace, that probably would be the most convenient course. I would not like to stop you or anybody else asking questions, if you so wished.

7956. But supposing we discuss now, as that is a matter with which you have been dealing, the High Courts, there would be opportunity given to us later to ask questions about the Federal Court or the Supreme Court?—I think certainly there must be at some time. My own view would be, and it is based upon two or three years of experience, that with the case of the Federal Court and the Supreme Court, what I believe really would best help the discussion would be if I could arrange a meeting between those members of the Committee who were specially interested in it and the Indian Delegates and officials like Sir Maurice Gwyer and Sir Claud Schuster, who know the intricacies of it inside

out. I should be only too delighted to arrange a meeting of that kind, if it was convenient to members of the Committee and the Delegates. I believe that we should greatly facilitate the discussion of a very technical issue if we started with a preliminary talk of that kind.

7957. That would be very useful, but, in the meantime, apart from the more technical questions of which you have been speaking, is it appropriate now to raise one quite general question, arising out of the evidence we have already had affecting the Federal Court?—Whatever your Grace wishes, so far as I am concerned.

7958. I will just ask it, because it is so general that it would not deal with the more intricate questions. The Secretary of State will remember that a good deal of evidence was given questioning the necessity of a permanent Federal Court and suggesting that for all the purposes for which a Federal Court would be required it would be quite feasible and very much less expensive to create a Federal Court *ad hoc* composed of such judges as the Governor-General might appoint. In other words, is it necessary for the class of business which would come before a Federal Court to establish and maintain, with all the expense involved, this separate Court. Would it have enough to do? Would it not be better to have a Court specially composed of selected judges to deal with matters when they arose?—I would think myself that it is almost inevitable to set up a Federal Court, and I think when we go further into the details, we shall find that temporary expedients of that kind, first of all, will not meet the object of the Federal Court, the main object being that it should be a Court of sufficient standing to carry weight both with British-India and the States; and, I think, secondly, we shall find that temporary arrangements of that kind, although they may appear to be cheaper, in actual practice are not cheaper, and that, in order to get barristers and judges, and so on, you will have to pay so much in fees for the deciding of a particular case that in actual practice there will not be any substantial saving at all, as compared with a Federal Court that, after all, need not necessarily be a very big Court.

Sir Tej Bahadur Sapru.

7959. Will they inspire any confidence in the public?—That is the first point.

Sir Tej Bahadur Sapru.] There will be utter demoralisation among the judges.

Archbishop of Canterbury.

7960. Then, passing to the High Courts, I think I am right in assuming from what you said, Secretary of State, that with regard to the qualifications of the High Courts, they will remain as they are; the only difference is that there will no longer be the requirement of keeping this particular proportion between the three classes?—Yes.

7961. There is no change of qualification—merely of proportion?—Yes; and there is no reason why in practice the proportions should not remain. What we are doing is, we are withdrawing the proportions as an actual condition. In practice as the best candidates are found in this particular proportion, they will be appointed.

7962. In other words, the present practice will probably continue but advantage will be gained if there was some conspicuously able person who might be appointed, though his appointment might go just over the fixed proportion?—That is so; it leaves the appointment and the field open.

7963. When you said just now that there were inevitable variations in Criminal Law and, possibly, Criminal procedure in the different Provinces, are these due to differences in local circumstances and characteristics, troubles, and the like?—(Sir Malcolm Hailey.) Yes. There has not been much disposition hitherto on the part of local Legislatures to vary the great framework of our Codes in any way, but at times it is necessary to make some small change to suit local circumstances.

7964. When you speak (this is my ignorance) of the Penal Codes, what is their sanction, authority, and extent in British India?—They prevail throughout British-India. It is a universal Code, like the Napoleonic Code, which regulates the Criminal law and the Criminal procedure in the Courts throughout British-India.

7965. Then at present there are many small variations of the application of these Penal Codes in accordance with the circumstances of different Provinces?—Many variations have been introduced.

7966. And there is nothing more than that, is there, contemplated in these proposals?—I should not myself anticipate that there would be any desire to alter the Code as a whole. At all events, it is not to the interests of the Legal profession to alter the Codes, which have a large amount of case law behind them.

7967. Just one question more, because many that I should like to have asked were asked by Lord Salisbury, and I noted the answers. What is the present practice with regard to appointments to the subordinate judicial offices?—We have described that for you at the bottom of page 8 and the top of page 9 of that Memorandum. If I may say so, Sir, the formal or legal authority enjoyed by the High Courts is, perhaps, in these respects a little less important than the authority they obtain by convention; that is to say, that in Madras the Munsif class of subordinate Civil Judges are actually appointed to the High Court. In other Provinces, the case may be that, though nominally they are appointed by the local Governments, yet by convention they are always the nomination of the High Court, sent to the local Government and accepted by it. The great mass of the powers enjoyed by the High Courts are obtained, as we have explained here, partly by legislation, but even more by convention and arrangement by the local Governments.

7968. Has there been any general movement of opinion towards the division between the judicial Executive functions and the Magistracy?—In a matter of controversy, I think for at least 40 or 50 years, we have made in different Provinces administrative arrangements to keep as far as possible the two functions apart, although we have not made formal arrangements to that effect; but so far there has not been any formal division of the Executive and judicial functions of the Magistrates.

7969. Is the difficulty of carrying that out mainly financial?—There are two difficulties. One is certainly financial, but another is a very grave doubt on the

part of many local Governments in the past whether, if you handed over to a Magistracy dependent entirely upon the High Court, the control of certain aspects of Criminal work, such as the use of the preventive sections you would maintain Law and Order as efficiently as you do at present I am not going into the merits of that, but those are the grounds of doubt.

Sir *Austen Chamberlain*.] Sir Tej Bahadur Sapru, I am informed that one reason for the Chairman having put down this subject this afternoon was that you particularly desired to put one or two questions upon it, and were returning to India to-morrow. If that is so, I think the Committee would like you to have the opportunity now.

Sir *Tej Bahadur Sapru*.] Of course, I am very much interested in the High Court, and perhaps, you will allow me to put a few questions?

Sir *Austen Chamberlain*.] Yes.

Sir *Tej Bahadur Sapru*.

7970. Is it, or is it not, a fact, that the High Courts at the present moment represent, roughly speaking, the amalgamated jurisdiction of the two Courts which were in existence before they came into existence, namely, the Supreme Court and the Suddar Dewany Courts and other Courts in the Presidency towns?—By virtue of the Indian Courts Act, about 1861.

7971. And so far as the Supreme Court established by the East India Company was concerned, it consisted wholly and exclusively of Magistrates and Judges. There were no I.C.S. appointed to the Supreme Court?—I am afraid I did not remember that aspect of it.

7972. I suggest to you that the Provision with regard to the Members of the Civil Service being represented on the Benches of the High Court was due to two circumstances: Firstly, because there were Supreme Courts composed entirely of Barrister Judges and Suddar Dewany Courts consisting entirely of the I.C.S. men at that time, and, secondly, because you had not an indigenous Bar at that time of the strength which you have now, nor had you any subordinate judicial Service at that time?—That is, no doubt, the reason.

7973. I will put this question to Sir Malcolm Hailey and, perhaps, with his long experience, he can answer it? Is it, or is it not, the fact that during the last 60 years, since the High Courts have been established, a very strong indigenous Bar has sprung up in every part of India?—That is so, certainly.

7974. And some vakil judges have acted as Chief Justices for considerable periods and with distinction?—In acting appointments.

7975. And with very great distinction?—I believe so, yes.

7976. Perhaps, you would answer that question, or somebody else might answer the question. Is it, or is it not, a fact that about the year 1911, the Inns of Court here raised this question with the Local Governments of India and the Government of India that the standard of men who used to come to England to be called to the Bar should be raised?—Yes. I remember seeing the discussions on that myself, when I was in the Home Department.

7977. I am sorry I have got to put the question, but I must put it: Is it, or is it not, a fact that there is a general feeling in India that the type of barrister who used to be sent out from England 40 or 50 years ago were not really fitted for service in India. Occasionally, you got a good man?—I think I would rather take it from Sir Tej that that is his impression, if I may.

7978. Let me state that definitely. We, in India, have felt very much that you have at times sent out Barrister Judges who ought not to have been sent out under any circumstances. I do say that. Now I put it to you, whether you can get barristers from India to act as Judges of the High Court who might in the ordinary course look forward to appointments in the High Court in London of the same standing—can you get that class of men for India who are generally appointed to the High Court here?—We get them, perhaps, at a different stage in their career. I think that you would hardly expect me to answer that question, because it really does reflect on the capacity and character of many men in our High Courts in India. Perhaps, instead of asking a question of that point, if Sir Tej could give the Committee his

own impressions on it, I think it would be a little fairer, if I may say so, to us.

7979. I am prepared to make this statement : Occasionally, during the last 25 or 30 years you have sent men who have really contributed a great deal to the elucidation of our law, but very frequently, during the last 15 or 20 years men have been sent out to India, to the exclusion of local men who are far superior to them, who would not have, in the ordinary course, risen to any judicial appointment in London. Now, Sir Malcolm Hailey, I would put to you one or two other questions in regard to this matter. Hitherto, since the year 1861, the practice has been that the permanent Chief Justice of the High Court has been a barrister. Under the White Paper proposals it would be possible to appoint a Member of the I.C.S. as Chief Justice ?—Yes.

7980. May I put it to you, whether you are aware that there is a very strong feeling in judicial and legal circles in India, and I can tell you, only three days ago, sitting here, I received a letter from an English Chief Justice (I am not at liberty to disclose the name) expressing a very strong feeling that the appointment of a Chief Justice should be confined to a Member of the legal profession, whether he is a barrister or an advocate, and that it should not be thrown open to a Member of the Indian Civil Service ?—(Sir *Samuel Hoare*.) Sir Austen, this raises a vital question of policy, and, perhaps, I might intervene for a sentence or two. I took the view that if we were adopting a policy of a completely free field of selection, it ought to be a completely free field of selection. It should be based upon taking the best man, whatever were his antecedents. That being so, it seemed to me impossible to make a restriction upon any one of the three classes against rising to the top of his profession. We, therefore, in the White Paper proposals leave the field open for the selection of the judge, in the first instance, and we leave the field open for promotion for the three classes that are working upon that field afterwards. That is the basis of our proposal, namely, that we take the best man when we want a judge, and we take the best man when

we want a Chief Justice, whatever may be his antecedents.

7981. Now may I put to you one more question in that connection ? Is it, or is it not, a growing feeling in India that the time has come when the High Court should consist exclusively of lawyer judges and that the I.C.S. men should not be appointed judges of the High Court ?—(Sir *Malcolm Hailey*.) That is a view I have very frequently seen expressed, and of which I have heard naturally a great deal in the course of legislative debates, but I am not sure that I should describe it as a universal view, because there have been many testimonies in many different quarters to the value attached to the peculiar experience that I.C.S. officers have acquired before they come to the High Courts, and there have been many people who have felt that in view of the functions of administration and control exercised by High Courts in India, their inspection of Courts, their appointments of numerous sub-judiciary and the like, it was of great advantage to them to have among them judges who have that particular type of administrative experience, quite apart from any legal attainments they might possess, though, as Sir Tej I know will admit himself, there have been many I.C.S. judges who have had very high standards of legal attainments.

7982. I have always maintained that ; some of them have. Now do you contemplate under your scheme to have a Minister of Justice in the Provinces, or some Minister to be responsible for the administration of Justice ?—I think there would be among the portfolios one, whether under that name or not, who would discharge those functions ; some reproduction of our present Home Department.

7983. Therefore, if you are going to have a Minister of Justice, why should you preclude him from advising the Governor or Governor-General as to the appointment of High Court Judges ?—(Sir *Samuel Hoare*.) We have always assumed that the vitally important thing was to keep these appointments very impartial, and that it was therefore better to take them out of the hands of a transient Ministry. That is the main reason that has weighed in my mind.

7984. Would not the Minister of Justice or the Governor be naturally affected very much by the recommendation of the Chief Justice of the Court in the appointments of the Judges of the High Court?—I would have thought that there would have been a general feeling, in the interests of impartial justice, that these appointments had better not be party appointments in any sense of the word, and they had better not be appointments made, as I say, by a Ministry that may be there to-day and gone to-morrow.

7985. But is it not possible to provide against such dangers by requiring that the Chief Justice of the High Court must always be consulted, and that his view should be laid before the Governor or Governor-General so that the Crown may be advised accordingly? That happens at the present moment?—(Sir *Malcolm Hailey*.) Yes. It is, I imagine, a procedure which would invariably be followed, as it is at present. It is not prescribed in the Statute, but it is a procedure which is always followed; and I should find it a little difficult to suppose that a Governor-General would make a recommendation in regard to the appointment of a Judge unless the Governor had, first of all, quoted to him the opinion of the Chief Justice.

7986. In point of fact the Secretary of State makes a certain number of appointments to the Bench in the High Court in India; but does he, before appointing Judges in India, consult the local government or the Chief Justice of the Court always?—(Sir *Samuel Hoare*.) Certainly; in my own experience we always have the views of the Governor; and, if there was any disputed issue, we should probably have, through the Governor, the views of his Chief Justice.

Mr. *M. R. Jayaker*.] Not when you make appointments of local men?

Sir *Tej Bahadur Sapru*.

7987. Local men here?—In my own experience I should always consult the Governor-General and the Governor before I made any appointment of a British Barrister from here. Sir *Malcolm* tells me that he has always been consulted in cases of that kind.

7988. Now with regard to the provincialisation or centralisation of the

High Court, on the very ground that the High Court must be above all party politics, I suggest to you that the better course would be for you to attach the High Court to the Federal Government rather than to the Provincial Government. The farther they are away from local influences, the better. What is your view with regard to this matter?—I am fully aware of the very strong case that may be made for the proposition that Sir *Tej* has just advanced. I am equally aware of the strong case on the other side. The case that has impressed me in favour of the proposals that we are making is the difficulty of segregating the administration of the High Courts from the Provincial administration—the questions of personnel, expense, and so on. Secondly, the other difficulty that has weighed in my mind has been the question of the subordinate Judiciary. I felt that in the case of the subordinate Judiciary, they were in such close contact with the day-to-day work of the Provinces, that it was very difficult to take that block of administrative activities out of the Provincial field.

7989. I take it on this point you do not agree with the recommendations of the Simon Commission?—That is so.

7990. Do you think that the administrative difficulties which you have pointed out in that small pamphlet which you have been good enough to circulate are of an insuperable character, so far as the attachment of the High Court to the Central Government is concerned, namely, finding the money for buildings and things of that kind?—Are they of insuperable difficulty?—I certainly would not go so far as to say that the difficulties were insuperable, but the difficulties are very complicated, and as at present advised we take the view that the course we propose is the better course, namely, making clear the duties of the High Courts in the Constitution Act, keeping the High Courts as the judges in the Provinces of the efficiency of the service and leaving to the local government the formation of the general rules upon which the Provincial High Courts will work. That, in a sentence or two, is the picture in my mind. I do not myself say that it is not open to criticism; it is; nor would I say that the difficulties in the way of any other course are insuperable.

7991. Would you kindly tell the Committee what the general trend of judicial opinion in India is?—I could not give an answer upon a question of that kind. What I could say is that from the communications I have had from India I would certainly not say that judicial opinion was unanimous for one course or the other. I have had different opinions expressed to me.

*Sir Austen Chamberlain.*] Some of those sitting around me are a great deal attracted by Sir Tej's proposal. I hope, therefore, that the Secretary of State will consider how these difficulties could be overcome of which he speaks, if the Committee should take Sir Tej's view.

*Sir Tej Bahadur Sapru.*

7992. That is my suggestion, Sir, that the difficulties should be examined?—Yes.

*Sir Austen Chamberlain.*] I was supporting your view.

*Sir A. P. Patro.*] I would say that in the Provinces we do feel that the High Courts should be kept in the Provinces as they have been since their foundation in the Provinces. There is absolutely no ground for any complaint on the part of the public that the High Courts have not been fulfilling their purposes in the Provinces. By taking away High Courts from the jurisdiction of the Provinces to the Centre you are taking away the real power which the Government have got in the control over the Judiciary. Therefore, I suggest to the Secretary of State it would be a really insurmountable difficulty in administrative measures.

*Sir Austen Chamberlain.*

7993. We are not announcing a decision at this moment, but that is exactly the point to which we want the Secretary of State to direct his mind?—Please do not think we have not been directing our minds to this problem for the last six months—in fact, for the last two years; and I think the more Sir Austen Chamberlain goes into it, the more he will realise I think the strength of the argument upon both sides, and how very strong is the feeling *pace* Sir Tej Sapru for the kind of proposals I am dealing with to-day.

*Sir N. N. Sircar.*] My neighbour here said that the feeling in the Provinces was very great for keeping the High Courts in the Provinces. That may be the feeling in Madras; but I can talk of two Provinces who have a feeling just the other way about, and when I get my chance I will place my views before the Committee.

*Sir Austen Chamberlain.*] I am sorry I interrupted Sir Tej. Will Sir Tej please continue?

*Mr. Zafrulla Khan.*] May I submit that Muslim opinion has been unanimous on this point, that any proposal to transfer the Provincial High Courts to the control of the Centre would meet with the greatest possible opposition from them?

*Sir Tej Bahadur Sapru.*] On this question of the High Courts I have nothing more to put. I do not know whether I should be within my rights in putting any question about the Federal Court?

*Sir Austen Chamberlain.*

7994. What do you feel, Secretary of State?—I would much rather myself to-day have kept to questions about the High Courts; but would Sir Tej have a talk with Sir Maurice Gwyer and Sir Claud Schuster?

*Sir Tej Bahadur Sapru.*

7995. I am leaving to-morrow. Mr. Jayaker will go on with my views. I have expressed my views in a Memorandum I am submitting?—We will give very careful thought to your views, but I honestly feel that it would be more useful if you or Mr. Jayaker could have a talk with Sir Maurice Gwyer or Sir Claud Schuster on the subject.

7996. I have finished my examination on this particular point, but I am making a suggestion to the Secretary of State, that in regard to the relations of the High Court with the Government, a reference might be made to the Judges of the High Courts in India. I am speaking with the permission of a number of Judges, English and Indian, who spoke to me before I left India, and some of them have written to me here (it so happens that most of my correspondents are English Judges) and I

would like judicial opinion to be taken in regard to this matter, whether the High Courts themselves want to be attached to the Provinces, or to the Provincial Government, or to the Central Government. I am not putting it on the communal ground and I am not putting it on Provincial grounds. I am putting it on the ground that so far as the High Courts are concerned their position should be above all possible doubt?—I will certainly take note of what Sir Tej has just said, always remembering that we have based our proposals upon an accumulation of information that we have had from India, not excluding the views of the High Court Judges, or many of them.

Mr. M. R. Jayaker.

7997. May I put to you a question which arises out of one question which Sir Tej put?—Are you aware, Sir Samuel, that so far as the bulk of legal opinion in India is concerned if it was a choice of two alternatives they would much prefer that you kept to the present rule by which a barrister alone can rise to the position of permanent Chief Justice, rather than to have a rule which would make it possible for an Indian Civil Service man to be permanent Chief Justice?—If that were so it would probably point to making no provision at all. I explained just now that if you are going to make a provision it does seem to me to be unfair to open the field in one direction and not open the field in the other direction.

Mr. M. R. Jayaker.] The objection being mainly grounded on the fact that however eminent an Indian Civil Servant may be, he was at one time a member of the permanent services of the country, and the feeling is that the Chief Justice would always be a man who was brought up in the free atmosphere of the Bar (I am not speaking of anything racial); but he was brought up and trained in the free atmosphere of the Bar, and never belonged, at any stage of his life, to the permanent services.

Marquess of Reading.

7998. Just one question on a matter raised by Sir Tej—I think it was

addressed to Sir Malcolm Hailey. Sir Malcolm, Sir Tej expressed criticism in regard to some members of the Bar from England who have been appointed Judges in India. Would I be wrong in saying that in India as elsewhere there are varying degrees of quality among the Judges of the High Court even among Indian Judges?—(Sir Malcolm Hailey.) That must be so.

7999. But, speaking generally, have you heard anything more than that kind of criticism, comparing one Judge with another, in a High Court?—Does it amount to more than that?—No, I myself had not heard it.

8000. May I put just one question to the Secretary of State? First, with regard to the case that was put just now, both by Sir Tej and Mr. Jayaker: Hitherto an Indian Civil Service man who has been a High Court Judge has not been eligible for appointment as Chief Justice. Has not that been so?—(Sir Samuel Hoare.) Yes.

8001. There was provision in the Statute that he must be a barrister?—I think so. (Sir Malcolm Hailey.) Yes.

8002. If you are going to change that is there not some danger of your getting a less trained lawyer as your Chief Justice if you took the Indian Civil Service man who has, of course, been engaged in other matters? Is there not something to be said for having the trained lawyer from the first who has not been occupied at all in the Indian Civil Service as the Chief Justice of the Court?—(Sir Samuel Hoare.) That may be so, but the whole basis of my argument is that you take the candidates on their merits and if that is a disqualification (I am not now saying whether it is or whether it is not) for a particular candidate being made Chief Justice, there is no reason than to make him Chief Justice.

8003. I will not press it further. I have only one question—it is the last I think I want to put to you—on making the High Court subject to the Federal Government and not the Provincial Government?—Yes.

8004. As I understand—you very clearly put it in your Memorandum—in substance, the difference that arises is in regard to minor matters of finance



and the accommodation to be provided in the High Court, is it not? I say that for this reason, Sir Samuel: You do make provision for the Judge to be appointed in the ordinary way by the Crown?—Yes.

8005. That is what happens. The salary is not votable?—Yes.

8006. So the Judge is on perfectly firm and safe ground in regard to that. The point of discussion as I have understood it, both from your Memorandum and elsewhere in India, is that if the High Court is subject in other matters to the Provincial Government, the questions that arise must be in relation to finance, that is, as regards appointments of minor officials and also as to the accommodation to be provided either by means of clerks, or it may even be of space. Is not that what happens? Does it go beyond that?—Sir Malcolm will amplify the answer. (Sir *Malcolm Hailey*.) Differences of opinion may arise, not only on pure financial questions of that type, but on general questions of control of the subordinate Judiciary. There is a rather wide range of questions on which you might very easily differ from your High Court, and it has often been felt—very generally felt by one class of thinkers—that those difficulties would be accentuated if your High Court was, so to speak, a central institution instead of having close relation with the Provinces. Your touch would be firmer.

8007. Would you tell me with regard to the High Court at Calcutta, that is one Court that has been under the Central Government and not under the Provincial Government. That is right, is it not—it is the exception to all the other High Courts. Questions have arisen, have they not, with regard to such matters as we are now discussing? Will you tell me—I am not sure that I recollect accurately—the finances and the accommodation such as I have just described had to be found by the local government, did they not, notwithstanding the control really was in the Central Government?—Yes.

8008. Is not that right?—That is so. The control was in the Central Government, but all finance, accommodation, and the like, had to be found by the

Local Government, and questions continually arose between us on that account. The High Court would apply for an additional Judge. The Local Government, with its eye on finance, said that the High Court did not do its work. The Government of India had to decide between the two, and the same with regard to accommodation. The High Court would say that they wanted more Court rooms. The Local Government would reply that they were very well fitted with Court rooms already. Again the Government of India had to decide between them. So, if you centralise the High Courts in regard to appointment, and the like, you must also centralise them in regard to finance, and the finance must extend to accommodation, and the pay of their establishment.

8009. What has not been clear to me in the discussion (not in what you have said, because that is quite clear) is assuming that you had the High Court under the Federal Government, is it suggested, do you know whether the Federal Government is to find the finance for those High Courts, or is it the Provincial Governments?—I think the suggestion has generally been that it has generally been recognised that the Central Government must also find the finance, and various suggestions have been made as to financial readjustments for that purpose.

Sir *Austen Chamberlain*.] I understand Mr. Zafrulla Khan would be glad to have an opportunity of putting a few questions before we adjourn. I understand he represents a rather different point of view from that of Sir Tej Sapru.

Mr. *Zafrulla Khan*.

8010. Secretary of State, would you kindly inform the Committee how the proposal to centralise the control of the High Courts would affect the question of the recruitment of the subordinate judiciary in the Provinces?—(Sir *Samuel Hoare*.) I think myself it would create considerable difficulty. I do not offhand see how it would work out. What would Sir Malcolm Hailey say? (Sir *Malcolm Hailey*.) I think that if the High Court were centralised it would

be far harder to get the Local Government to extend to it, by arrangement, the authority which it now gives it in regard to appointment of subordinate judiciary. There would be more likely to be a kind of position of strain between them. (Sir *Samuel Hoare*.) Sir *Malcolm* means, does he, that as it is now, when they are both part of the same administrative machine, the Local Government pays a great deal of attention to the views of the High Court. (Sir *Malcolm Hailey*.) Yes. (Sir *Samuel Hoare*.) Whereas, if they were subject to different authorities, those kinds of relations would become more rigid, and might become more distant. (Sir *Malcolm Hailey*.) I think that would be the case, because I think it is almost inevitable that if the High Court were dependent on the Central Government, and its eyes, so to speak, were turned in that direction, if it had any complaint as regards the inadequacy of finance provided for the subordinate judiciary, it would tend to complain to the Central Government instead of to the Local Government. That would be a cause of friction which might react on the willingness of the Local Government to entrust it with the authority and the power that it now gives to it.

8011. May I put another aspect of the question, or, rather, stress one particular aspect of this question? It is not correct that, although it is extremely desirable, and nobody would object to the individual candidate for appointment to a subordinate judiciary post being selected by the High Court as a result of an examination or otherwise, communities in the Provinces will insist that, so far as the proportion of interests and classes, and other things are concerned, they must be determined by the Local Government?—(Sir *Samuel Hoare*.) I should say myself that that certainly would be the case, and, in fact, I understand, that that is the arrangement in certain of the Provinces now.

Sir *A. P. Patro*.

8012. In Madras it is so?—I had Madras in mind.

Mr. *Zafrulla Khan*.

8013. And in the Punjab?—In the Punjab too.

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8014. With regard to finance, suppose the High Courts were transferred to the Centre, and their expenditure was also placed upon the Central Budget, would not that seriously disturb the sort of arrangement between the Centre and the Provinces with regard to the allocation of sources of revenue which the Federal Finance Sub-Committees have been considering, and so forth?—I think it would certainly add a new and tiresome complication to the problem.

Sir *A. P. Patro*.

8015. A very great complication?—Considerable complication, and, in my own view, a very tiresome form of complication, namely, a complication concerned with all sorts of sundry and disconnected details.

Mr. *Zafrulla Khan*.

8016. If I might, with the Chairman's permission, depart from that aspect of the question, and draw the Secretary of State's attention to one or two matters arising out of what he has told the Committee to-day, may I draw the Secretary of State's attention to page 31 of the Second Report of the Round Table Conference, where it is said that the subject of the Provincial High Courts has received a certain amount of attention from the Federal Structure Committee, and certain matters are there laid down, the Committee being of opinion that the High Court Judges should continue to be appointed by the Crown; the existing law requires certain proportions of each High Court Bench to be barristers and civilians, and so on—that that need not continue?—Yes.

8017. "And they recommend that the office of Chief Justice should be thrown open to any Puisne Judge or any person qualified to be appointed a Puisne Judge. The practice of appointing temporary additional Judges ought, in the opinion of the Committee, to be discontinued." It is the last sentence to which I wish to draw the Secretary of State's attention. He will also recollect that, during the course of the third Round Table Conference a Sub-Committee dealt with certain aspects of the judiciary. They were also unanimously of opinion that the

practice of appointing additional temporary Judges should disappear. The White Paper does contemplate that that practice will continue. May I inquire what are the reasons in support of continuing the practice which has been objected to unanimously by the Federal Structure Committee here?—I do not myself attach very great importance to this question one way or the other, but what we have found is this, that the Government of India hold the view that it is necessary to retain the power to appoint additional temporary Judges of this kind. This is a note I have upon it. They say it is uneconomical to make permanent appointments for the purposes for which additional Judges are sometimes appointed, namely, to meet exceptional pressure of work, nor is it possible for financial reasons to constitute the High Courts at such a strength that they will contain a reserve for leave vacancies which are necessary in Indian conditions. The White Paper proposes to place these appointments in the hands of the Governor-General personally, as being the best means of keeping High Court appointments, even of this temporary character, free from Party pressure.

8018. May I draw your attention to paragraph 169 on page 80 of the White Paper?—Yes.

8019. Where it is proposed that the age of compulsory retirement of High Court Judges should be fixed at the odd figure of 62. Is there any special reason why it should be fixed at 62 and not 60 or 65?—Sir Findlater Stewart remembers the point. (Sir *Findlater Stewart*.) I think it was a compromise. I think it was felt, so far as the Federal and Supreme Courts were concerned that you might have to go beyond the age of 60, which is at present the age for retirement and, having decided that you had to go at 62 for the Federal Court Judge it seemed unnecessary to make a distinction between the two classes of Court, and 62 was fixed as a common compromise figure. I do not think it was anything more than that.

8020. May I suggest this for the consideration of the Secretary of State when he is finally considering this matter, that the age of compulsory retirement for

Federal Court and Supreme Court Judges may be fixed at 65, and that of High Court Judges at 60. This would enable the selected Judges who are appointed to these higher Courts to continue for a longer time, and the present age of retirement for High Court Judges would be retained. It is not a very great question of principle, but I just draw attention to it?—(Sir *Samuel Hoare*.) I will certainly take note of what Mr. Zafrulla Khan has said. I would not like to express a view one way or the other off-hand upon it.

8021. May I draw attention to page 65 of the First Report of the Round Table Conference. It is the Report of the Services Sub-Committee. This is a question distinct entirely from the one to which reference has already been made, that a person who is eligible for appointment as a Judge would certainly be eligible for appointment as Chief Justice. I am not raising that, but, with regard to the future, a majority of the Services Sub-Committee recommended that recruitment for judicial offices should no longer be made in the Indian Civil Service. Those that are already there, and so on, I am not touching upon at all. What I am drawing attention to is the recommendation of the majority of the Sub-Committee that, in future, in fixing the cadre, the Secretary of State might take into consideration the conditions in India, that plenty of trained legal talent is available for appointment to judicial posts (subordinate, intermediate and high judicial posts) and that, in future, recruitment should not be made on that list?—(Sir *Malcolm Hailey*.) I think, if I may say so, that is a question that will arise in the course of discussing the Services, which will be separately discussed. Mr. Zafrulla Khan knows very well the grounds we have already taken in that matter.

Sir *Austen Chamberlain*.] Sir Tej, your examination of the Secretary of State on Federation was interrupted this morning by our adjourning. I understand that you are leaving to-morrow?

Sir *Tej Bahadur Sapru*.] I am leaving the day after to-morrow.

Sir *Austen Chamberlain*.] That is to say, before we can return to the subject. Would it be convenient to you in these circumstances to supplement your questions by supplying the Committee with a memorandum which could be printed in our proceedings at the proper time?

Sir *Tej Bahadur Sapru*.] I had as a matter of fact written out a memorandum, and a fairly comprehensive one, on all the points that have been engaging the attention of the Committee. I am submitting it to-morrow to the Lord Chairman, and I will submit a copy of it to the Secretary of State, if he will allow me to do so. I will as soon as I reach India send to the Lord Chairman printed copies of it; I have had no time to get it printed here. I have dealt with all these questions in my memorandum; but there is one statement I should like to make, if I may be permitted to do so, on the question of indirect or direct

election. I have had no opportunity of expressing any opinion upon that subject. All I wish to say is that I am entirely in agreement with the views expressed by Lord Lothian and his Committee on that question; and the four reasons assigned, at pages 22, 23 and 24, are reasons which I am prepared to adopt as my own reasons. I will not take up your time any further. That is to say, I am in favour of direct election for the reasons stated by Lord Lothian in his Report. I am strongly opposed to indirect election. That is all I would like to say at the present moment.

Sir *Austen Chamberlain*.] The Committee stands adjourned to 10-30 on Thursday morning, when we will take up the question of Finance, when I trust that the Lord Chairman will be here to re-assume his responsible and difficult duties.

*(The Witnesses are directed to withdraw.)*

Ordered, That the Committee be adjourned to Thursday next, 10-30 o'clock.

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27th July 1933.

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Present :

Sir AUSTEN CHAMBERLAIN in the Chair.

Lord Archbishop of Canterbury.  
Lord Chancellor.  
Marquess of Salisbury.  
Marquess of Zetland.  
Marquess of Reading.  
Earl of Derby.  
Earl of Lytton.  
Earl Peel.  
Lord Ker (Marquess of Lothian).  
Lord Hardinge of Penshurst.  
Lord Irwin.  
Lord Snell.  
Lord Rankeillour.

Lord Hutchison of Montrose.  
Major Attlee.  
Mr. Butler.  
Major Cadogan.  
Mr. Cocks.  
Sir Reginald Craddock.  
Mr. Davidson.  
Mr. Isaac Foot.  
Sir Samuel Hoare.  
Sir Joseph Nall.  
Lord Eustace Percy.  
Miss Pickford.

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The following Indian Delegates were also present :—

INDIAN STATES REPRESENTATIVES.

Rao Bahadur Sir Krishnama Chari.  
Nawab Sir Liaqat Hayat-Khan.  
Sir Akbar Hydari.  
Sir Mirza M. Ismail.

Sir Manubhai N. Mehta.  
Sir P. Pattani.  
Mr. Y. Thombare.

## BRITISH INDIAN REPRESENTATIVES.

His Highness The Aga Khan.

Dr. B. R. Ambedkar.

Sir Hubert Carr.

Mr. A. H. Ghuznavi.

Lt.-Col. Sir H. Gidney.

Sir Hari Singh Gour.

Mr. N. R. Jayaker.

Mr. N. M. Joshi.

Begum Shah Nawaz.

Sir A. P. Patro.

Sir Abdur Rahim.

Sir Phiroze Sethna.

Dr. Shafa' At Ahmad Khan.

Sardar Buta Singh.

Sir N. N. Sircar.

Sir Purshotamdas Thakurdas.

Mr. Zafrulla Khan.

The Right Hon. Sir SAMUEL HOARE, Bt., G.B.E., C.M.G., M.P., Sir MALCOLM HAILEY, G.C.S.I., G.C.I.E., and Sir FINDLATER STEWART, K.C.B., K.C.I.E., C.S.I., are further examined.

*Sir Austen Chamberlain.*

8022. My Lords and Gentlemen, I regret to say that our Lord Chairman, though he is better, is not able to be present to-day, but he will be with us to-morrow.

To-day we further discuss the Financial Section of the White Paper. When the financial discussion was broken off on the last occasion, Sir Akbar Hydari mentioned that he would like to make a statement on behalf of the States. I propose, therefore, to call upon Sir Akbar Hydari first, and then to call upon in turn those Members of the Committee and Delegates who have given notice to the Secretary of State of their desire to ask him questions. I hope that the Committee and the Delegates will think that a convenient arrangement.

*Sir Akbar Hydari.*

8023. The statement which I am authorised to make on behalf of the Indian States' Delegation is as follows. If (as had emerged from the figures in the Hailey Memorandum) at the time of the date of the passing of the Constitution Act, the British-India Budget, Central and Provincial, as a whole, including the Budgets of deficit Provinces was a balanced one, the Indian States could immediately enter the Federation on the basis of the *status quo*, as then existing, so far as Finance was concerned. Secondly, that the White Paper proposals concerned may be accepted, provided that (a) the prescribed percentage to be retained by the Federation under paragraph 139 of the Proposals is not less than 50 per cent.; and (b) that it is understood that the White Paper proposals in paragraph 139 empower the

Governor-General, in his discretion, to suspend beyond the ten years reductions of assignments to Provinces, if he is of opinion that the continuance of the assignment would endanger the financial stability of the Federation. Thirdly, if at any time, even during the period of the first ten years the financial position becomes such that the Federal expenditure cannot be met from sources of Revenue permissible to the Federal Government, after all possible economies had been effected and the resources of indirect taxation open to the Federation exhausted, and the return of the Income Tax to the Provinces suspended, a state of emergency will be held to have come into being, when all Federal units will make contributions to the Federal Fix on an equitable and prescribed basis. Pending questions relating to individual States should be settled as early as possible by negotiation with the States concerned.

*Sir Austen Chamberlain.*

8024. Secretary of State, would you wish to make any comment at this stage upon the statement just read by Sir Akbar Hydari?—(Sir Samuel Hoare.) I think I would like to add this single sentence. It is satisfactory to hear from the representative of the States that at a point the States are ready to take a direct share in the financial burdens of the Federation. I would prefer not to go into further detail at this stage. I imagine that probably further details would emerge in my cross-examination, but I would draw the attention of the Committee and the Delegates to that one salient fact, namely, that at a point the States contemplate undertaking burdens other than the burdens of indirect taxation.

*Marquess of Salisbury.*

8025. Secretary of State, of course, I shall try to frame my questions having regard to the very important statement that has been made, but the Committee will realise that, perhaps, one might make a slip in respect of it, because it is rather difficult to gather its full import without further consideration. But, first of all, I would like to revert to the Federal Budget. As I understand, there will be in effect three Budgets. There will be the Budget, that is the expenditure which is required for the Reserved Services; there is the general Federal Budget, which is required for Federal Services and there are the Provincial Budgets?—Does Lord Salisbury put it in the form of a question?

8026. Yes?—If so, I would not agree.

8027. You do not agree?—No; there will only be two Budgets. There will be the Federal Budget, and the Provincial Budgets. The Provincial Budgets will have nothing whatever to do with the Federal Budget. There will be only one Federal Budget at the Centre, which will deal with the expenditure both of the Reserved Departments and of all the other Federal Departments, and for the provision of funds for the whole of this expenditure jointly.

8028. When the Secretary of State says the Provincial Budgets will have nothing to do with the Federal Budget, I understand (but, of course, I may be quite wrong) that the Provinces will have a share in the proceeds of direct taxation?—After the point set out in paragraph 139.

8029. At any rate, they will have a share in it, will they not?—At some date in the future.

8030. But evidently, they must be financed in some way or other—if they are in deficit, for instance?—Lord Salisbury, I think, must be thinking about the Income Tax.

8031. Of direct taxation. By all means, call it Income Tax, if the Secretary of State wishes, but I understand there is Corporation Tax, too, is there not?—Yes; I include that in the general term Income Tax. Lord Salisbury will see, if he looks at paragraph 139, that as things are now the time at which there can be a distribution of the Income Tax seems

somewhat removed. To start with, at any rate, therefore, there will be no complication of that kind. Supposing the time comes when there is a distribution of Income Tax between the Provinces and the Federation, then it will be done upon a definite plan, and the Provinces will know quite clearly that they are entitled to such and such a percentage. There will be no uncertainty about it.

8032. But, I suppose, that plan will depend upon the fiscal conditions of the moment?—No, not at the moment, it will be done over a period of years. If Lord Salisbury would read the paragraphs in the White Paper, he will see that we have dealt fully with those contingencies.

8033. If the Secretary of State wishes to read one of the parts of it, of course, I will wait for him?—I was rather assuming that the Members of the Committee had read the White Paper proposals. The paragraph to which I am referring is 139.

8034. I forgive the Secretary of State his sarcasm; but, at any rate, the Secretary of State will admit that the financial arrangements of the White Paper are very complicated, and, therefore, it is not surprising that we do not quite understand them all straight off?—Certainly.

8035. As I understand, what he says is that the contribution of direct taxation to the finances of the Provinces will depend upon a condition of things stretching over a period of time?—Yes. Put in a sentence, the conception of our plan is that Income Tax eventually is a tax, to a share of which, at any rate, the Provinces are entitled. At the same time, as things are now, the Centre requires all the resources that are now at its disposal. We, therefore, make a plan under which for the first three years of the Federation all the Income Tax is retained by the Federal Centre. After the period of the three years, a certain percentage of the Income Tax is allocated to the Provinces over the next period of seven years, the eventual allocation being between 50 and 75 per cent. to the Provinces. You see, therefore, that for the first period, there is no allocation; after that, there is an increasing distribution to the Provinces, eventually reaching whatever may be the percentage that is decided upon, but not more than 50 to 75 per cent.

Marquess of Salisbury.] That is quite sufficient for my purpose.

Sir Austen Chamberlain.

8036. I cannot quite reconcile, Secretary of State (it is doubtless my fault), what you say about the first three years with the terms of paragraph 139 of the White Paper. The passage to which I refer is: "For each of the first three years after the commencement of the Constitution Act, however, the Federal Government will be entitled to retain in aid of Federal Revenues"—I omit some of the words—a sum to be prescribed?—Yes; I ought to have made myself more clear. During the first three years we have a free hand as to what we retain, and if it was found that the Centre could not get on without the whole Income Tax, then we should have to retain the whole Income Tax.

Marquess of Salisbury.] It is quite sufficient for my purpose. What the Secretary of State has told us is that the Provinces are entitled to a share in the Income Tax and that share appears to be a variable one, an uncertain one, to be prescribed hereafter, at any rate in the first three years, it may be afterwards, as far as I know, and, subsequent years.

Earl Peel.] To some extent.

Marquess of Salisbury.

8037. That is to say, there is a doubtful variable amount, variable by certain authorities, of the Income Tax which is to be assigned to the Provinces or may be assigned to the Provinces?—Yes.

8038. Therefore, the Secretary of State will agree, will he not, that the amount of claim which the Provinces make, the effort they make to Income Tax must depend largely upon the expenditure which they think they are called upon to make?—It must depend, of course, upon two things: First of all, the demand of the Federal Council, and secondly, the demands of the Provinces.

8039. But it depends partly on the demand of the Provinces?—Yes, always assuming that we must retain at the Federal Centre sufficient funds to meet the charges and obligations.

8040. That is exactly the difficult issue which will have to be tried on each occasion. The Provinces will be pressing for more Income Tax and the Federal

authorities will be trying to restrict it?—I am not quite sure what Lord Salisbury means by each occasion. If he means this is going to be a question of controversy each year, then I do not agree with him. The percentage will have to be determined for a period, and under our proposals we determine it under Order in Council.

8041. Prescribed, no doubt, for a period, but sooner or later the matter will have to be reconsidered and re-adjusted and then there will be pressure from the Provinces to have more. I mean, that follows from what the Secretary of State has said?—Yes, except that under the White Paper proposals, the plan is prescribed by Order in Council, and the prescribed plan runs on for a period of years.

8042. But, I suppose, the Order in Council will not be made *in vacuo*; it will be after hearing what everybody concerned has to say about it?—The Order in Council I conceive will be made after the financial inquiry to which I have already alluded more than once in this Committee, namely, that either during the passage of the Bill, or immediately after the passage of the Bill, there will have to be an inquiry of this kind, and it will be based upon the result of that inquiry that the Order in Council will eventually be issued.

8043. But what is prescribed may vary at the end of a certain period, may it not? I do not know what the period is. I am told it is three years?—No; that is not so under our scheme. There is this period of 10 years during which an increasing amount up to a particular percentage is handed over to the Provinces. At the end of that time they get the full percentage, and they get no more.

8044. Is all that to be fixed straight off? What is prescribed, I suppose, may be more or may be less, may it not? It is not a certain fixed figure?—Only within the terms of our proposals, if our proposals are accepted—between 50 and 75 per cent.

Sir Austen Chamberlain.

8045. Would it work this way, that you would prescribe the percentage which might be 100 per cent., which would prevail for the first three years, and you

would at the same time prescribe the reduction in that percentage which would take place in each of the following seven years until you reached the final figure?—Yes, that is so. It is a very accurate description of the White Paper proposals.

*Lord Peel.*

8046. It is clear that after the 10 years the two periods of three and seven years, the tax does go to the Provinces, because the last five lines of paragraph 139 are, I presume, governed by that period. In themselves it looks as if the Governor-General could suspend the reductions even after the 10 years, but that is not intended, I understand?—No, it is intended that after the period the Provinces should be entitled to their full percentage.

*Lord Rankeillour.*

8047. When you say "Order in Council" do you mean the Governor-General in Council, or an Order in Council here?—Order in Council here.

*Sir Malcolm Hailey.*] Paragraph 145.

*Lord Eustace Percy.*

8048. Is it not the fact that under the White Paper proposals from the end of the first three years the whole process will be completely automatic?—(*Sir Samuel Hoare.*) Yes.

*Marquess of Reading.*] No, surely not after the three years.

*Lord Peel.*] The Governor-General can alter it, surely. It is not automatic.

*Lord Eustace Percy.*] Automatic subject to the Governor-General's power of revocation in an emergency.

*Lord Peel.*] That is a very large proviso.

*Lord Eustace Percy.*] Yes, I am aware of that, but subject to that?

*Lord Peel.*] Yes.

*Sir N. N. Sircar.*

8049. Having regard to the answer of the Secretary of State, may I take it to be correct that if the view presented by Sir Akbar Hydari this morning is accepted it would mean this, that if after the end of 10 years you propose to give us, the Provinces 50 or 55 per cent., if that involves any direct contribution by the States then that has got to be stopped. The Provinces

must wait not for 20 years, but for 1,000 years if giving any portion of the Income-Tax involves any direct contribution by the States?—I do not follow Sir Nripendra's question, but, off-hand, my answer would be 'No' to him.

8050. My question was this: Supposing after 10 years (but for the intervention of the States) if the Provinces were getting say 50 per cent. of the Income Tax, then the States take up the point that if 50 per cent. is handed over to the Provinces, that will involve a contribution to the Federal centre from the States; therefore the Provinces must not get the 50 per cent. Is that the way in which you understand Sir Akbar Hydari's statement made to-day?—No, it is not at all.

*Sir Akbar Hydari.*

8051. It is not that?—We can make that clear later on. Perhaps Sir Akbar would ask me some questions on that point later on?

*Marquess of Salisbury.*

8052. I think this conversation has made it clear that, although there are certain mathematical principles which are applied, yet it will be in the power of the Governor-General to modify them?—Certainly.

8053. The Governor-General will, of course, be accessible to representations from the Provinces?—And also from the Federal Government.

8054. And also from the Federal Government, yes. I think I may say then that the Secretary of State agrees with me that there will be an opportunity, and, indeed, a very great temptation on the Provinces to press, if they are hard up, for a larger share of the Income Tax?—There will be an equally great pressure, perhaps a greater pressure from the Federal Government to press the Viceroy not to sacrifice resources without which the Federal Government cannot meet its charges.

8055. The Secretary of State has anticipated the conclusion at which I have arrived. There will be two competing authorities who will want to have a share in the Income Tax?—Yes.



8056. That is really the whole object of the questions I have addressed to him up to now?—Yes. Would Lord Salisbury carry it a step further and say that the reason there are these two competing authorities forces us to the suggestion that the decision must be a decision by Order in Council taken upon the Governor-General's advice at his discretion?

8057. Yes, I quite agree there is the protection of the Order in Council, but the Order in Council means, of course, the advice of the Secretary of State, and he will also be accessible to the same kind of pressures as the Governor-General is. This arises out of that, but what does he precisely intend to do in respect of the Provinces which are definitely in deficit?—I think we must clear off that deficit before the changes take place.

8058. Clear it off?—Clear it off.

8059. But it will be in the shape of an annual deficit, not a round sum?—The two main cases, of course, are Bengal and Assam.

8060. Yes?—I think there some arrangement must be made under which Bengal and Assam will start upon an even keel. I think it is possible to make that arrangement.

8061. I suppose the Secretary of State would not be inclined to tell the Committee what arrangement he has in mind?—I have already done no more than once, and Lord Salisbury will remember in the speech I made the other day, I alluded to the jute tax in Bengal.

8062. Yes?—That, at any rate, half the jute tax should be left with Bengal, and I included that idea in the general proposals that I made.

8063. It might happen that other Provinces were in deficit besides Assam and Bengal?—We should have to take the Provinces as they were at the moment when we made this financial inquiry, and, as things are at present, nobody can prophesy for the future one way or the other. I do not think there will be many provinces in deficit at that time. There certainly should not be many Provinces in deficit.

8064. I am sure the Secretary of State is wise in taking an optimistic view?—I am not taking an optimistic

view. I am taking the position as it is now.

8065. The Secretary of State has not anticipated that there will be any difficulty?—I never said that. Lord Salisbury must not make comments on my evidence which are not justified.

8066. I apologise. I put it too far. I do not want to press the Secretary of State, but what I meant to convey is that this rests upon a very important thing, the opinion of the Secretary of State?—No, that is not so at all. My opinion rests upon the present position of affairs when it looks at the end of this financial year as if only two provinces will be in deficit.

8067. I am sorry if I transgressed for a moment. I will leave it there. Now let me turn from the position of the Provinces to the Federal budget itself. The Secretary of State has said there will be only one Federal Budget, but there will be two claims upon it. There will be the claims of the Viceroy with his reserved services, and there will be the claim of the responsible Federal Ministers for the Federal expenditure?—Yes.

8068. They will be definitely competing for the money?—Certainly, each side will wish to have its demands met.

8069. There will be (we know there is) tremendous pressure by the Government, by the Ministers, to have a larger share of the Federal resources because they have not concealed the thought—those who are likely to be represented—that there is too much spent already on the reserve services. The Secretary of State admits that that criticism is commonly made in India?—Yes.

8070. And public opinion can be very influential indeed when the responsible government is established?—I would certainly admit that there is that kind of pressure now. Whether or not it will be greater in the future is a matter of opinion. Lord Salisbury has his view upon the subject. I have once or twice expressed mine.

8071. I suggest to the Secretary of State that there will be very strong pressure, very difficult to resist, for a diminution of the cost of the reserved services in order to pay for what may be very valuable objects under the re-

sponsible government?—My answer to Lord Salisbury is that there is that kind of pressure now. I do not see any reason why it should become more dangerous in the future.

8072. The Secretary of State does not think that the establishment of a responsible Government with a majority behind them will make it more difficult for the Viceroy than it is at present?—The establishment of responsible government will mean the inclusion in the Government of quite a number of Ministers and representatives who will be directly interested in keeping the defences of India in a secure state.

8073. I am not going to put my opinion against the Secretary of State's. At any rate, that is what his view of the matter is. May I go into another practical matter in which I hope I shall not show my ignorance: How is the payment of the non-votable services to be secured; how is it to be ensured? May I suggest to the Secretary of State that when the Estimates are framed there will I presume be a discussion between the Finance Minister and the financial adviser of the Viceroy as to how much will be required for the reserved services?—Yes. We had contemplated that normally, assuming that things are working reasonably, there would be discussions of that kind.

8074. Yes?—And probably discussions with the other Ministers.

8075. No doubt, with the Ministers as a whole?—As a whole.

8076. There will be this discussion. No doubt the Finance Minister may represent to the financial adviser that he is estimating for sufficient taxation to cover whatever arrangement they come to?—To cover not only whatever arrangement they come to, but what in the opinion of the Governor-General is necessary to finance his reserved Departments.

8077. Is not it clear that there will be a tendency of the Finance Minister to represent that, without increase of taxation, he can cover all the services? He will evidently do it. Every Chancellor of the Exchequer tries to do, that of course?—Yes. It is very much what happens now.

8078. Supposing it turns out that he is wrong and that at the end of the financial year it turns out that he has not estimated sufficient to cover the expenditure upon the reserved services: What will happen then? Will the reserved services have to give way, or will the other expenditure have to give way, or will there have to be Supplementary Estimates?—The reserved subjects, certainly, will not have to give way. What I imagine would happen would be one of two things: either the Governor-General would persuade the Federal Government to introduce a Supplementary Estimate (and I hope that that is the course that would be adopted if things were working reasonably between the two sides of Government).—

8079. Technically, it would not be a Supplementary Estimate. It would be a new Finance Bill and increase of taxation?—I am not distinguishing between the terms—I will say "introduce a new Bill." In the event of the Federal Government refusing to take action of that kind, then the Governor-General must act on his own initiative and he must make a financial proposal and see that it is carried through under which he will get enough money for his services.

8080. Would not the Secretary of State agree that all that process would tend to put great pressure on the Governor-General, to try to meet the Finance Minister as far as he can?—I think the pressure would work both ways. I think, also, if I were Finance Minister I would much prefer not to get to a crisis of that kind and to take the action myself if it was a reasonable demand.

8081. It would depend what pressure was put by the majority by whose authority you sit as a Minister, would it not?—There again one has to take into account that there will be a large number of members, both of the Legislature and a substantial number of members of the Government, coming particularly from the Indian States, who will be very much interested in questions of defence.

8082. I am quite sure the Committee sees what the point of the question is and also sees the point of the Secretary of State's answer, and I will not put it any further than that. I should

certainly have thought that the change to a responsible government would constitute a very much more formidable pressure on the Governor-General than under the present system?—Lord Salisbury ought, however, to remember that at present, when all the Departments are reserved, it seems to me that public opinion is much more strongly mobilised against them, but that it is arguable that when the Indians themselves are members of a responsible government they will look more sympathetically at these problems of defence, and that the Governor-General in practice may often find that he has more support behind him than he has at present.

Marquess of Salisbury.] It is certainly arguable. I will not put it higher than that.

Sir A. P. Patro.] May I say what is happening every day under our present dyarchical system with reference to Law and Order? During all the years that we have been working there has not been a conflict between the reserved subjects and the transferred subjects. Ministers and members sit together. We scrutinise the proposals made by the Heads of Departments. When the Heads of Departments first make the proposals the Secretariat examines them; then they are forwarded to the Finance Department; the Finance Secretary and the Finance Member scrutinise them. Then they come before a sub-committee of the Cabinet, and on the recommendation of the sub-committee the whole Cabinet, members and ministers, sit together. In that Cabinet we first see what is the amount available for distribution. The reserved subjects are amply provided for first in regard to the preservation of Law and Order. There has not been any occasion where there has been friction between the reserved subjects and the transferred subjects. The transferred subjects consist mostly of development departments. We fight with our colleagues for more money for expansion of more subjects: expansion of education, public health and all that; but we also realise, at the same time, that the reserved departments must be maintained properly and efficiently. Therefore, we come to an amicable understanding. Ultimately, as has been very rightly pointed out by the Secretary of State, the Governor-General persuades both of them to

come to an understanding. We do come to an understanding at the time the budget distribution is made. Then the whole matter works smoothly. When the budget goes before the Legislature the transferred side supports the demands of the reserved side. When they come to the budget the right of the Council is to cut down any subjects but the Ministers support the reserved side by their voting strength behind them. Therefore, all this seems to me, with due deference, not to be a fact and is not consistent with the way in which we have been working as a matter of experience. The practical necessities of the situation show that these difficulties are more imaginary than real.

Marquess of Salisbury.

8083. Just in order to lead up to another thing, might I ask the Secretary of State to confirm if I am right in saying that he does not contemplate the possibility, owing to financial reasons, of bringing the Federation into existence immediately?—I gave a very full answer to this question the other day; I would prefer to stand by the words I used then.

8084. Indeed, I gathered from him that he did not even think it possible to bring the Provincial Constitution into existence immediately while Finance stands as it does?—There again, I dealt in some detail with that question the other day, and I would prefer that answer to stand.

8085. I have a difficulty in understanding quite how the financial relations between the Federal Government or the Home Government and the Provinces are to be made sure. Of course, the financial position of the Provinces must depend upon the two sides of the account. How much they spend, and what comes in in taxation. Now what guarantee or assurance will the Central Government have of the proper conduct of these matters by the Provinces? Will they have Inspectors?—No, certainly not.

8086. Then how will they know that the taxation which is due from the Provinces is being properly raised?—Lord Salisbury's question suggests a conception of Provincial Autonomy that is very different from mine. I do not in the least contemplate a system under which the

items of the Provincial Expenditure will be checked by officials from the Federal Government. I assume rather that financial arrangements will be made under which the Provinces will start upon an even keel. Having started upon an even keel, they must work out their own salvation. They must balance their budgets. If they do not balance their budgets, then they must impose more taxation or there must be a change of Government, but they must be free then to work their own Budgets, always with this reservation, that if they are in debt to the Centre, then the Centre can intervene in the cases in which they wish to issue Provincial loans ; but, apart from that, I look to the Provinces to raise their money upon the lines set out in the White Paper in their own way, and to balance their own Budgets ; and if they do not balance their own Budgets, then their sins will be upon their own heads.

8087. But I thought in respect of this financial legislation, indeed, with regard to all Federal legislation there must be some agents of the Federal Government to see that their decisions are carried out ?—I do not know what decisions Lord Salisbury has in mind.

8088. All sorts of laws. Just to answer the question of the Secretary of State, there would be all sorts of laws ?—But Lord Salisbury is asking me questions about finance. What kind of Federal financial agents does he contemplate having in the Provinces ?

8089. Let me say assessment, for instance ?—Assessment for what purpose ?

8090. Of course, the Provinces will pay Income Tax, will they not ?—Yes. With assessment for Income Tax the present arrangement would go on.

8091. What is the present arrangement ?—(Sir *Malcolm Hailey*.) The assessment of Income Tax at present is a Central Department ; it was taken over by the Centre from the Provinces about 10 or 11 years ago. Assessment is now made by Central Agents and the collection is effected through the Province.

8092. So that there will be a Central Agent in the Provinces having regard, at any rate, to assessment ?—Only assessment of a Central tax, like Income Tax. Would you permit me, Sir, to say, that at present there is no financial super-

vision over the Provinces. We assess and raise our own Land Revenue ; we deal entirely with our own Excise. A few of the stamps, the ratio of stamp fees, etc., are subject to Central Legislation, but a great part of them to Provincial Legislation. Registration is entirely a Provincial head, and entirely managed by it, so, of course, with the other sources of Income, such as Forests, Irrigation, and the like. The only way in which we come financially in contact with the Centre in the sense of financial control is that the Centre, is on behalf of the Secretary of State, charged with seeing that we do provide the scheduled rates of pay for All-India Services, and, as the Secretary of State has just said, if we get into debt, that is to say, if we are in deficit, then that constitutes an overcraft on the Centre, and we may have to take a loan from the Centre to meet that overdraft. In that case, if we propose to raise a loan either for productive or non-productive purposes in the Province, then the Centre does intervene as regards the terms of that loan and the like. That is the extent, at the moment, of financial contact between the Centre and the Provinces.

*Sir Reginald Craddock.*

8093. Might I just ask one question on that, and that is how far the collection of the Income Tax is effected by Central agency or by Provincial agency ?—Notices, warrants, etc., are issued by the Central agency. Then if there is any default in payment, application is made to the local Revenue Authorities, who carry out the execution or prosecution, as the case may be.

*Sir Austen Chamberlain.*

8094. Am I right in assuming that the Customs Service would be a Federal Service ?—(Sir *Samuel Hoare*.) Yes. (Sir *Malcolm Hailey*.) And is at present Central.

8095. And the Excise Service ?—No ; Excise, as such, is purely Provincial. Of course, there is that part of Excise which is collected as part of the Customs—that is Central, but all the rest of the Excise is Provincial.

8096. What is the salt duty ?—The salt duty is separate ; that is Central.

8097. Collected as part of the Customs ?—No, salt duty is collected partly as Customs duty and partly in the exercise of the Government monopoly, and that is Central. Opium, again, is Central.

Lord *Eustace Percy*.

8098. Am I not right in saying that there are certain Excises, like petrol, which are assessed and collected by Provincial agents, but the proceeds sent to the Centre ?—That applies only to the producing Provinces of Burma and Assam.

Marquess of *Salisbury*.

8099. At any rate, there are a good many points of financial contact in the carrying out of the fiscal policy between the Centre and the Provinces ?—(Sir *Samuel Hoare*.) Yes, contact but not control. Contact mainly over the field of Customs and Income Tax, apart from the other minor instances quoted by Sir *Malcolm Hailey*, but no question of a detailed interference in the Provincial budgets or supervision of that kind.

8100. The Secretary of State makes a distinction between contact and control. He reminds me of a celebrated observation of Mr. Gladstone : " General Gordon was hemmed in, but not surrounded. " You remember the historical occasion ?—I remember the historical occasion, but I do not see the relevance of the Noble Lord's observation.

Archbishop of *Canterbury*.

8101. Secretary of State, do I understand that you do not contemplate any officers of the Centre in any way interfering with the collection of the Income Tax in the Provinces ?—(Sir *Malcolm Hailey*.) The Centre would continue to assess the Income Tax as before and collect it up to the extent of sending demands on the assessee. It would merely fall on the Province to take action if those demands were not paid. That falls on the Province because it involves a legal process, and the legal processes of this nature rest with the Provinces as part of their Provincial work. That, I think, is the only extent to which the Province and the Centre come into con-

tact over Income Tax, and it is a very small extent.

Dr. B. R. *Ambedkar*.

8102. May I draw the attention of the Secretary of State to the fact that under Proposal 70 of the White Paper, the Governor has the special responsibility to secure the execution of orders lawfully issued by the Governor-General ?—(Sir *Samuel Hoare*.) Yes.

8103. If the Governor-General issued any orders with respect to finance which required the Provincial Governments to execute them, the Governor would see that they were executed ?—Yes ; in the field of Federal taxation that would be so.

8104. Any orders issued by the Federation which required that they were to be executed by the Provincial Government, there is a special responsibility on the Governor to see that those orders are executed ?—Yes, Orders issued by the Governor-General.

Sir *Hari Singh Gour*.] Lawfully issued.

Dr. B. R. *Ambedkar*.

8105. Lawfully issued, of course. Another question. In that section of the White Paper proposals which deals with the administrative relations of the Provinces and the Centre—I am speaking offhand—I think provision is made that whether the Provincial agency will be utilised by the Centre in carrying out the administration of Central subjects is a matter for the Province ; it may employ its own agency ?—Yes, I have always hoped, judging from the experience of other Federations, that we should duplicate as little as possible administrations, and speaking generally, it is much better that the Provincial administration should carry out the directions of the Federation within the Federal field rather than that you should duplicate these administrations all over India.

8106. What I was trying to point out was this, that if the Provincial Governments turned out to be recalcitrant and not amenable to the control of the Central Government, the Centre is not bound to employ the agency of the Province and can employ their own agency

in the administration of Central subjects?—That is so.

Marquess of Salisbury.] Now if I may take you to a totally different part of the subject, which bears upon the very important statement which Sir Akbar Hydari has made to the Committee this morning I hope I shall not fall into any error—Sir Akbar will correct me in a moment if I do—I understand that what his statement amounted to was this, that in an emergency—I think he used the phrase “in an emergency”—the States would come to the rescue of the Federal Government and would contribute something out of the ordinary. Is that so?

Sir Akbar Hydari.] If you will kindly complete your question, I will be able to say.

Marquess of Salisbury.] Will contribute something out of the ordinary, I said. Let me put it in this way. Would it be true to say that the ordinary contributions of the States were confined to indirect taxation?

Sir Akbar Hydari.] That is so, but there is also the question of a contribution which in the British Provinces would fall in the nature of a Corporation Tax; and the Indian States would also levy a Corporation Tax or give an equivalent thereof to the Federal Government. I do not know whether you consider Corporation Tax to be a direct tax or an indirect tax?

Marquess of Salisbury.

8107. I believe Corporation Tax is counted as a direct tax, is it not?—Yes.

Sir Akbar Hydari.] There is that exception when you use the word “indirect.” I wanted to qualify it.

Marquess of Salisbury.

8108. May I ask the Secretary of State this: As the Income Tax is changed from time to time for British-India, will there be a corresponding change in the States’ contribution?—I do not follow the question.

Earl Peel.

8109. If it is a surcharge, it will be, I think will it not?—Yes. The position is this, is it not—here again Sir Akbar

will correct me if I am mis-stating the position: The States will not contribute anything by way of direct taxation to the Federation except in the two instances to which I am going to refer, and even in those cases, the States will be at liberty to make a contribution in lieu, if they prefer it, rather than to submit to direct taxation. The two points that I have in mind are, one: Corporation Tax after ten years; two: Special surcharges on Income Tax as set out in proposal 141, and also paragraph 67 of the Introduction to the White Paper. That is, in a sentence or two the general position, is it not?

Sir Akbar Hydari.] Yes.

Marquess of Salisbury.

8110. Would it follow then that as the rate of Income Tax may vary in British India, there will be a corresponding variation in the States in their contribution?—There would only be a variation, if the Corporation Tax varied. If the Corporation Tax was put up, then the corresponding contribution from the States would be proportionately greater. If the Corporation Tax was lowered, equally the States’ contribution would be smaller.

Sir Austen Chamberlain.

8111. Would not that apply also to surcharges for Federal purposes on all taxes on income other than agricultural income under paragraph 141?—Yes, I think it would.

8112. It says: “While such surcharges are in operation, each State Member of the Federation (unless it has agreed to accept Federal Legislation regarding taxes on income as applying to the State) will contribute to Federal Revenues a sum to be assessed on a prescribed basis.” That is, I presume, equivalent to what the Income Tax would have yielded in that State?—Yes, that is so.

Earl Peel.

8113. And it is true, is it not, that no part of that money so raised goes to the Governors’ Provinces for entirely Federal purposes?—Yes; it is a special tax raised specially for the needs of the Federation.

Marquess of *Salisbury*.

8114. Then it seems to follow, does it not, that however the exact form is prescribed, in fact, the Federal Legislature will be empowered to impose direct taxation upon the States?—No. I am afraid I have not made myself clear. The Federation will impose a Corporation Tax, and will impose it upon the British Provinces. The States in the circumstances that I have just described will either impose a Corporation Tax of an equivalent amount themselves in their States, or they will make other arrangements under which they can get an equivalent sum, and they will pay the equivalent sum into the Federal fisc.

Marquess of *Salisbury*.] I was not very inaccurate, was I, in saying that according to the vote of the Federal Legislature so will vary the taxation, or, at any rate, the contribution of the States.

Sir *Akbar Hydari*.] To this extent.

Marquess of *Lothian*.] So it will in the case of Customs?

Marquess of *Salisbury*.

8115. Yes?—Where I do not agree at all with Lord Salisbury is when he says that the Federation will be imposing direct taxation upon the States. I do not accept that view of the situation.

Sir *Austen Chamberlain*.] Will it be correct to describe it as levying a precept upon a Prince for a certain sum of money which the Prince will provide in such manner as he thinks fit?

Marquess of *Salisbury*.

8116. And which will be equivalent to the corresponding burden imposed in British India?—That would certainly be a much more accurate description in my view.

Lord *Rankeillour*.

8117. That applies to the variable surcharges under 141 as well as to the Corporation Profits Tax?—Exactly; I just said so.

Marquess of *Salisbury*.

8118. So the amount of the contribution of the States which they may levy

as they think fit will depend on the vote of the Central Federal Legislature?—In the circumstances which we are discussing and with the representatives of the States taking part in the Legislature and taking part in the Federal Government.

8119. I do not want to ask anything more on that head, but only one further question, and that is really merely for the purpose of clearing things up. May I ask the Secretary of State to look at paragraph 48 of the Proposals; it is on page 49?—Yes.

8120. It is merely to find out the exact position of the Council in respect of financial legislation. I understand that the Council of State will not be allowed to initiate financial legislation. Is that so?—I suppose, technically, there ought to be a distinction drawn between demands for grants, that is, supply, and the more general term “financial legislation.”

8121. But even as regards demanding a grant, it can only do that in certain circumstances. May I read it? It is quite short, so perhaps the Committee will allow me to read it: “The Demands as laid before the Assembly will thereafter be laid before the Council of State”—then come the powers of the Council of State which follow: “which will be empowered to require, if a motion to that effect is moved on behalf of the Government”—that is usual in all constitutions; it comes from the Government—“and accepted, that any Demand which had been reduced or rejected by the Assembly shall be brought before a Joint Session of both Chambers for final determination.” So that it only will have regard to Estimates which have been reduced or rejected by the Lower House?—Yes.

8122. Therefore, it will not be possible for the Council of State to reject an Estimate *proprio motu*?—No; that is so.

8123. It will be in the power of the Assembly to do that?—Yes, and it will be in the power of the Governor-General to bring the vote to the Council.

8124. Not unless they have been rejected by the Assembly. In other words, the operation of the Council of State does not begin except in cases where the

Assembly has rejected or reduced an Estimate?—Yes, that is so.

8125. The Council of State could not say of its own motion, "The Government is extravagant; we desire to reduce its estimates." They could not do that?—No, not under these proposals.

8126. I wanted it to be clear because sometimes the language is used (I do not say by the Secretary of State) that the two Houses are on an equal footing in matters of finance?—Shall I put my interpretation of Proposal No. 48 into a sentence?

8127. Yes, please?—Under Proposal 48 of the White Paper the Council of State cannot itself add to or reduce or reject any demands for grants, but it can, if it accepts a government motion to that effect, cause to be referred to a joint session final consideration of any demand for grants which the Lower House has reduced or rejected.

8128. So it does not begin to operate and provoke at the instance of the Government this joint session, except in matters which have been rejected or reduced by the Lower House?—That is so.

8129. So that, if it were thought that the Council of State would be a protection against extravagance, that view would have to be accepted with great limitation?—I am just thinking the position out. It is true to say that the position is as I have stated it, with grants; but the Council of State would certainly have a *locus standi* with a budget and could, under our proposals, reject a budget.

8130. Could it reject the whole budget?—It could reject the whole Finance Bill.

Lord Rankeillour.] And amend it and reduce taxation.

Dr. Shafa'at Ahmad Khan.

8131. That would be taxation?—I will ask Sir Malcolm to amplify what I have said, because budget means one thing to us and it means another thing in India, rather. (Sir Malcolm Hailey.) Unless the procedure now in force is altered we should presumably continue as at present, merely to place a budget before the Legislature, and under the general

terms of that budget we should apply for demands for grants, that is to say, for supply. Unless fresh taxation were required, no further legislative Act would be required on the part of the Legislature.

Marquess of Salisbury.

8132. I quite understand, if he will forgive me for interrupting him, what Sir Malcolm Hailey means is that there would be no Appropriation Bills in the Constitution?—No; therefore, the Council of State could not reject a budget as such. What it could do, apart from the power in regard to demands for grants which has just been described under No. 48, would be to reject a Bill for taxation.

8133. A Finance Bill it could reject?—A Finance Bill.

Lord Rankeillour.] Could it amend a Finance Bill by lowering a particular tax?

Sir Phiroze Sethna.] It has done so.

Sir Hari Singh Gour.

8134. It could do so?—If it did so, then the case might subsequently have to come to a joint session, because there would be a difference between the two Houses.

Marquess of Reading.

8135. If there is no question of further taxation, and it is merely a question of the demands that have been made, am I right in understanding that that question would not come before the Council of State at all, because it would be for the Assembly to deal with it, and assuming the Assembly accepts it and there is no further taxation, there is no reason why it should go to the Council of State. Is not that right?—That is so. If one were to assume that the Government were to put its budget before the Federal Assembly and the Federal Assembly accepted the whole of its demands for grants, then, although the demands would be subsequently laid before the Council of State, there would not have been any of these reduced demands on which the Council of State could, at the instance of Government, take action. It would, therefore, debate the budget or the demands for grants,



but it would not go into any legislative action.

Marquess of Reading.] No.

Sir Austen Chamberlain.

8136. May I get this clear. In our own financial system in this country certain of the most important taxes are never voted for more than one year?—Yes.

8137. In order to oblige the Government to come annually to Parliament for a vote of those taxes, even although they be unaltered in amount?—Yes.

Sir Austen Chamberlain.] I understand that that is not the Indian system.

Sir Hari Singh Gour.

8138. That is the Indian practice?—There is no Statute to that effect at all. Purely as a matter of convention we have placed one Finance Bill annually before our Legislature, but, as I think I explained the other day, that is just a matter of convention. If it were to be made a part of the Constitution it would be necessary now to place that in the Statute and put it therefore beyond a stage at which it was merely the option of Government to introduce an annual Finance Bill as it is at present.

Sir Austen Chamberlain.

8139. I imagine there are other members of the Committee besides myself who do not quite understand these matters. What does the annual Finance Bill contain? Does it contain a tax which you have only asked for for one year, and want to renew at the same rate?—Yes.

8140. You reserve one tax for annual review?—Yes.

Marquess of Salisbury.

8141. To come back and conclude my point, although the Council of State will have complete co-ordinate authority in respect of the Finance Bill, it will have a very much lower authority than the Assembly in respect of what you call demands, or what we should call estimates?—Yes.

Marquess of Salisbury.] In point of fact, it could not reject *proprio motu*, or increase, unless the Assembly had already dealt with it

Sir Hari Singh Gour.] Nobody can increase; even the Assembly cannot.

Sir Austen Chamberlain.] Please let the Witness answer.

Marquess of Salisbury.

8142. It could not reject or increase demands for expenditure unless they had already been dealt with by the Assembly at all. It could not reject the appropriations *en bloc*—I cannot call it the Appropriation Bill, but the appropriations *en bloc*. It could do nothing to restrict the extravagance of the Government of the day *proprio motu*. Is that so?—(Sir Samuel Hoare.) Yes, I think it is.

8143. So that when any member of the Committee, or member of the delegation, relies upon the Council of State to protect the financial stability of the Federation he is relying upon a broken reed?—Lord Salisbury is so very fond of adjectives and adverbs.

8144. They are necessary for language?—The more he uses them, the more I personally see an objection to them. I do not agree either with his adjectives or his adverbs in his last sentence.

Marquess of Salisbury.] I have not the same mastery of language which the Secretary of State has. I have to rely on the English language as I have been taught it.

Sir Austen Chamberlain.

8145. Put very simply, Secretary of State, is it a fact that the Council of State can only intervene to restore expenditure rejected by the Lower House, but not to reject expenditure voted by the Lower House?—Yes.

Sir Akbar Hydari.

8146. Is that expressly the position which has been taken up by the Indian States about the position of the two Houses being equal? Is that what is implied in the position which has been taken up by the Indian States that the powers of the two Houses should be equal, except only with regard to the initiation of a measure; according to what we had in mind the Council of State could really deal with a demand grant in any way it sees fit without reference to whether it had been passed wholly by

the Lower House or not ?—It ought to be remembered that in the case contemplated in this discussion the Government and the Lower House are agreed. In the Government the States have got their representatives. If the Government and the Lower House are not agreed then the Government can bring the case into the Council of State.

*Sir Austen Chamberlain.*

8147. Is that so, Secretary of State, without qualification ? No grant can be proposed in the Lower House except on the initiative of the Government ?—Yes.

8148. Therefore the case could not arise of the Lower House voting more than the Government thought necessary ?—No.

*Marquess of Salisbury.* That is common to all Constitutions, of course.

*Lord Eustace Percy.* No, not all.

*Sir Joseph Nall.*

8149. Is it not the fact that the Council of State cannot exercise any control over expenditure except in regard to such items as have been rejected or reduced by the Assembly, and, unless the Assembly moves to reject or reduce, the Council of State cannot exercise any control whatever over expenditure ?—I think that is so under our proposals.

*Lord Peel.*

8150. Just one or two general questions before the exactly specific ones that I wanted to put. First of all, as regards the general distribution of taxation : Of the great heads of revenue, the land revenue, of course, falls to the Provinces, and the customs to the Federal Government ?—Yes.

8151. But all the great debatable territory, I think, is the income tax, and I think I am right in saying that over that most of the controversy has raged ?—Yes.

8152. I think several different proposals have been made for its distribution ?—Yes.

8153. One was, I think, the opposite system to the one you suggest here, that the income tax should be assigned to the Provinces, and they should make contributions to the Centre ?—Yes.

8154. I think that was rejected on the ground that it would be very difficult to

get money out of the Provinces when once they had got it in their hands ?—Yes.

8155. And this arrangement in paragraph 139 is in the nature of a compromise to give the Federal Government good support for the first ten years of its existence, while the Provinces feel that they will get this income tax after that ten years have elapsed, and, presumably, will be happy in contemplation of their future success ?—Yes, the proportion of the income tax contemplated in the White Paper.

8156. Just one question arising from Lord Salisbury's question about this question of assessments. I think Lord Salisbury suggested that there would be a great deal of contact between the Federal Government in matters of finance and the Provincial Governments. Is it not more true to say that these contacts would be between the Federal Government and individuals in the Provinces as regards assessment of companies and individuals ?—Certainly.

8157. And that there would therefore be no chance of friction between the Governments concerned ?—Yes, that is so.

8158. As regards his question about the money for reserved subjects, I think it was suggested there would be a constant friction which would go on between the Governor-General and the Ministers as to sweeping in the money for the reserved subjects, and those that were transferred ?—Yes.

8159. But is it not true that there would probably be great pressure in the Assembly and the Council of State for expenditure on the reserved subjects, that is on Defence, and is it not also true that elected members are not always on the side of economy, but very often on the side of extravagance ?—I think that is certainly so, judging by our experience here.

8160. I am much obliged for that statement. Now just one or two questions of the nature of detail although I think they are important detail. In paragraph 137, as regards salt, Federal Excises and Export Duties, the Federal Legislature has the power to distribute some portion, the whole or any part of the net Revenues from those particular sources. The question I am going to put is this :

Do you think it wise that the attention of the Provincial Governments should be specially directed to those particular sources of Revenue? If, for instance, the Federal Government is going to increase the rate of those taxes, will not that be almost an invitation to the Provinces to step in and say: "We want to have a share anyhow of that increase"—and if you are going to allow the Federal Government to make grants to the Provinces in certain cases, if their exchequers are overflowing (I do not think they often will be) is it not better to give it a general power out of the whole sources of taxation to give a grant to the Provinces rather than to allocate it to the product of any particular head of Revenue?—I am conscious of the kind of objection that Lord Peel has just urged. Would he, however, consider the other side of the question, the side of it that has prompted us to make the proposal of paragraph 137? We want, if we can, to get away from doles to Provinces. We made this proposal on the ground that in the case of salt, the actual consumption of salt in a Province was rather a good test for the amount of the tax to which it might think itself entitled. That is the reason why we made this proposal rather than a more general proposal on the dole lines,

*Sir Austen Chamberlain.*

8161. How would that work in the case of the Federal Government finding it necessary to raise extra Revenue and, therefore, to increase an Excise duty of which it had assigned a proportion to the Province? Suppose the salt tax is  $x$ , and half  $x$  has been assigned to the Province, the other half is insufficient for Federal purposes and they add to the rate and make the total rate  $x$  plus  $y$ , would half of  $y$ , the addition, automatically go to the Provinces?—We contemplate that the Federal Act under which an imposition of that kind is made would set down the conditions and that it will be free to the Federal Act to set out what percentage of grant it intended to make to the Province.

8162. Am I right in interpreting that as meaning that if half the original tax had been assigned, before Federal purposes it was necessary to increase the rate of the tax, the whole of the increase

might be reserved by the Federal Government?—It is so, and it would depend upon the Federal Act.

8163. You see the importance of it, Secretary of State? Otherwise, the Federal Government might have to impose double the charge it needs, because only half of the receipts would come to it?—Yes, certainly.

*Earl Peel.*

8164. May I follow up the Secretary of State's answer just a little further. Of course, I quite appreciate his point, if I may say so, but if you make a grant to the Provinces defined as a specific part of a particular tax, I should have thought it would be rather difficult to withdraw that grant in the future. It would be difficult to do it for an emergency and the tendency would be for a sort of convention to grow up that the Provinces had a right or claim to the particular percentage of those specified taxes?—I think there is something in what Lord Peel says. At the same time, I do think the other plan is the better plan, in view of the history of doles to the Provinces in India, and our desire to get away from it, if we can. I will take into account what Lord Peel has suggested. As at present advised, I am not convinced that his plan is a better one than ours.

8165. I will only ask one further question on it. I will not pursue it too far. If it is a question of a dole, and I suppose we cannot help calling it by that unpleasant name—a grant-in-aid, the Chairman suggests, I am bound to say I should have thought if the Central Government wishes to make a grant-in-aid, then, apparently, it can only do it from the proceeds of these specific taxes. As the amounts from those taxes are already allocated to Federal purposes, does it not really control, to some extent, the method by which taxation should be levied—that is to say, instead of allowing the Federal Government to raise this tax for a grant-in-aid anywhere it likes, it is more or less bound to do it from one of these particular taxes, while it might be extremely inconvenient to raise the tax at that particular moment?—I do not think there is anything in the White Paper that would prevent a lump grant being given to a Province, but it

is not the kind of grant that we are contemplating.

Marquess of Zetland.

8166. May I ask a supplementary question? I am not quite clear on this point: Will it be open to the Federal Government to vary from year to year the percentage of these particular taxes which it assigns to the Provinces, and, if so, will not that make it rather difficult for the Provincial Finance Ministers to draw up their budgets?—The Legislature would have the power to make a change, but I think Lord Zetland is attaching too much importance to this proposal really, for this reason: We are contemplating under this proposal a situation in which the Federal Government will have a good deal of money to give away. As we see things at present, it looks a rather distant contingency.

8167. I agree it does not look at the moment as if the Federal Government would have much money to give away, but that really is not an answer to my question. I understood you to say in reply to my question that the Legislature would have power to alter the percentage of these taxes to be assigned to the Provinces. Is it the Legislature or the Government?—I mean the Federal Government acting through the Federal Legislature.

Lord Eustace Percy.

8168. May I just interpose one question on this point? Is it not the fact that this paragraph 137 applies to practically all Federal taxes other than Income Tax, because the taxes to which it applies cover almost the whole field of Federal taxation, and was not one of the considerations in your mind this, that Federal taxes being all except Income Tax, taxes on consumption it might be desirable that the beneficial services, which are all Provincial services, should, to some extent, be financed out of taxes on consumption which are *ex hypothesi* paid by the individual poor consumer. Was not that in your mind, in the case of salt?—Yes, it was. Lord Eustace would, however, remember that Customs, the main source of Federal Revenue, does not come into this category at all.

Marquess of Reading.

8169. Secretary of State, is not the effect of this provision which we are discussing this: it is only an enabling power, is it not?—Yes.

8170. It is only intended to be an enabling clause?—Yes.

8171. It is not in any sense direct or mandatory; it is one of the means which they may use, and, therefore, it is open to the Federal Government to determine or not whether it will use this particular power.

Marquess of Zetland.] Except in the case of jute?

Marquess of Reading.

8172. That is an exception?—Yes, Lord Reading is quite right. This is an enabling provision.

Marquess of Reading.] It is not meant to be more than that, as I understand it.

Earl Peel.] But, of course, enabling provisions are sometimes extremely awkward to deal with. I have just one more point on that, and I will leave it. I am not dealing with jute, which, of course, is a special case.

Marquess of Zetland.] But it is referred to in that particular paragraph.

Earl Peel.

8173. It is. I only wanted to ask a question excluding it. I was not quite sure that I understood the Secretary of State's answer about salt that he gave, three or four questions ago. I think he suggested that it would be right that the Provinces should have some of the salt tax, because from several of the Provinces most of that source of income arose?—No, I did not say that; if I did, I expressed myself badly.

8174. I am sorry?—What I did say was, that with salt there was the rough and ready test of the consumption—not of the production—of the consumption of salt in a Province.

8175. But may I ask this further question: Is it not a fact that that distribution of the proceeds of that salt tax, whatever the proportion may be of the whole amount raised, will not be in proportion to the amount consumed in the Provinces, but will be probably on some

general plan in which population and wealth of the Provinces are factors?—I think that might well be so. The Federal Government will have to lay down the tests.

*Dr. Shafa' at Ahmad Khan.*

8176. May I just ask one question arising out of that? I suppose this will be done, if possible, after consultation with any inter-Provincial body that may be set up?—I should have thought, certainly, there would have to be discussion, say, with the Provincial Finance Ministers, or something of that kind. I would rather not be precise in defining the exact form of the consultation.

*Earl Peel.*

8177. Secretary of State, may I ask you then a question on the other side of the picture, for the moment—that is to say, there is a proposal called “Emergency Powers” which have been discussed, that is emergency powers on the Federation to levy a direct precept, as it were, in cases of difficulty, on the Provinces. I think apart from the temporary provisions about the Income Tax, you have included no such powers in the White Paper. Would not that be, in the case of an emergency at the Centre, a useful general power to have?—Lord Peel raises a difficult question upon which I know there are two schools of thought. One school of thought thinks that in the case of an emergency the Provinces should be called upon for the exceptional expenditure. The other school of thought takes the view that in the case of an emergency threatening the Federation, that is to say, All-India, All-India should be liable for the expenditure. I have approached the question, I think, quite open-mindedly, prejudiced neither in the favour of the one course nor the other, but the reason that makes us make no provision for a Provincial constitution in a case of that kind is that we think that in a great emergency the Provinces would very likely not have the funds available, and that, if they did have the funds available, there might be more difficulty in getting the money to be spent. On that account, it is better to treat it as a Central emergency to be financed from the Centre. But, as I say, this is a question upon which many

different opinions have been expressed, and I should like to hear the views of the Committee and the Delegates upon it.

8178. Then I will not, perhaps, ask you further questions on the point at the moment, but I will reserve them for the discussion. There are several points, of course, that I could put upon that subject. Then, just passing, if I may, for a moment, to paragraph 138, that is as regards these long lists of taxes, death duties, and so on, which will be assigned to the Governor's Provinces, and the Legislature can lay down the basis of distribution and they can put a surcharge on. The first question I want to ask on that is this: I gather it is implied in that proposal that none of these taxes (I will take death duties as an example) could be imposed in any Provinces unless all the Provinces were to agree to do so. As I understand it, if seven of the Provinces out of nine wanted to have death duties, they would not be able to get them, unless the other two agreed. Is it not further the case that this power of surcharge of Federal taxes might be extremely useful to the Central Government, but could not come into operation until you had an agreement among all the nine Provinces to assent to death duty taxes?—(Sir *Malcolm Hailey.*) The proposal is, of course, Sir, that this shall be a tax Federally imposed for the benefit of the Provinces. Therefore, if it were found undesirable to apply that tax to one particular Province, we will say, in the case of death duties, then it would be possible for the Federal Legislature to pass a general Act applying to all Provinces, with the exception of that particular one.

8179. You could do that, could you, in spite of the fact that the basis of distribution amongst the Provinces has got to be laid down by the Legislature?—In passing its Act it would prescribe the distribution.

8180. Among the Provinces, I assume, which contributed, and not among the others?—Among the Provinces to which the Act applied.

8181. May I ask further: Supposing the Act applied to six out of nine Provinces, in that case would the Federal Government be able to raise a surcharge on those duties? Observe, of course,

that they fall specifically on those Provinces which themselves had agreed to have death duties?—Yes, the surcharge would obviously be limited in effect to those Provinces in which the Act was in force.

*Sir Austen Chamberlain.*

8182. Whether the Act is in force or not depends on the will of the Central Legislature, not on the Province?—That is so.

*Lord Peel.*

8183. Then it is quite clear, is it, that the Central Legislature can raise a surcharge on the product of the taxes of certain Provinces if it has chosen, with, I suppose, the agreement of those Provinces, to have those taxes raised in those Provinces?—I am not quite sure as to the exact amount of assent on the part of the Provinces to that taxation. It would be certainly taxation raised for the benefit of the Provinces, and therefore I assume that their assent would first be obtained.

*Lord Eustace Percy.*

8184. Is not the whole object of keeping these taxes Federal taxes that they should be uniform throughout India?—Yes, and I was merely assuming that local conditions might make it impossible to raise, shall we say, death duties, or something of that type, in one particular Province, but the object of making it Federal legislation is, as Lord Eustace Percy says, merely uniformity. They are entirely for the benefit of the Province, in the first instance, although ultimately the Federal Legislature may impose surcharge on it.

*Mr. N. M. Joshi.*

8185. May I ask why duties should be made uniform?—I think if you would look at the nature of the taxation you will see the desirability at least that death duties should be uniform, in effect; also taxes on mineral rights. Of course, terminal taxes must extend throughout India. That it would not be possible to exclude any particular area from, but that again has to be uniform in nature, and stamp duties, for the same reason, we have generally kept uniform hitherto. The uniformity

flows rather from the nature of the tax itself.

8186. I understand the tax on minerals and the other tax may stand, because they throw a burden on competitive industries, but death duties do not throw a burden on competitive industries?—I think it would be almost impossible to have varying death duties, because property would lie in several Provinces. It is very difficult to assess any death duties at different rates in different Provinces.

*Dr. Shafa'at Ahmad Khan.*

8187. Death duties are now a provincial subject, are they not?—There are no death duties at the moment. The Bombay Legislature proposed to levy death duties, but ultimately said they would prefer it should be Federal taxation for the reason I have given.

*Sir Phiroze Sethna.*

8188. To-day they are provincial?—They are not there.

*Lord Peel.*

8189. In these cases of the basis of distribution which is a very controversial matter, do you think it would be a good thing that in this, as in other cases, the basis of distribution, to avoid great discussion in the Legislature for the first five years, should be settled in the Act or not?—(Sir Samuel Hoare.) No, I do not think I do, for this reason; we have thought that to put all these details into the Act would very greatly overburden it and overburden the Schedules. It seemed to us on the whole wiser to leave it to the Federal Legislature when proposing such taxes to lay down in its own Act what was to be the method of distribution among the Provinces.

8189A. I think this is the last question I want to ask. It is a question about paragraphs 139 and 141. There is a power, of course, in the Governor-General, as has been stated in paragraph 139 to alter the amount of the tax retained for a certain number of years by the Federal Government. That means to say, of course, that the Provinces would be taxed because it would be money that they would have contributed. In paragraph 141, of course,

there are also apparently concurrent powers to place surcharges. If that policy is adopted of surcharges on Income Tax, rather than of the retention of more Income Tax, that, of course, would fall on the States as well as the Provinces. I am not quite clear whether it is intended that those two powers should be concurrent for the first 10 years, or that the second power of surcharge should come into operation at the end of the 10 years?—The surcharge would, of course, be for an emergency.

8190. Yes, but you would draw a distinction between an emergency in the first 10 years and the operations of the Governor-General in saying that he must retain more of the income tax for the Centre?—Yes.

8191. You draw a distinction between those two?—Yes. Shall I put my answer a little more clearly?

8192. Thank you?—An increase of the ordinary rates of income tax under paragraph 139 would affect Federal revenues in respect only of that share of the income tax which is permanently assigned to Federation. As regards the remaining part it would affect the Provinces, since the Federal share of that part is not the proceeds of the tax, but a lump sum. The proceeds of a Federal surcharge under Proposal 141 will go entirely to the Federation. That is the point to keep in mind.

8193. Yes?—And, further, subject to the special conditions explained under paragraph 141 the States would contribute. The proposals in paragraph 141 are, unlike those in paragraph 130, designed for special conditions of an emergency character.

8194. Of which the Governor-General would be the judge, I suppose, as to whether they were an emergency?—Yes, the Governor-General would be the judge of the emergency.

*Lord Hardinge of Penshurst.*

8195. My questions. Secretary of State, are based on your and Sir Malcolm Hailey's Memorandum of the 6th July?—Yes.

8196. In paragraph 8 it is there stated: "The principal item, Defence Services, stood at 56.23 crores net 10 years ago and the fall to 46.20 net is

due largely to retrenchment, though also (to the extent of about 1 crore) to the fall in commodity prices—a factor which may prove to be temporary. The present budget figure is regarded by the military authorities as barely satisfying the normal requirements of the Army at its present strength, for it has involved the depletion of stocks of supplies and the postponement of building and other programmes." What I would like to ask you, Secretary of State, is whether this reduction is due to a failure to replenish the reserve of stores of guns, rifles, shells, rifle ammunition, etc., which had been depleted during the last or previous year?—No. The reduction is not due to a failure to replenish reserves of guns, shells, rifles, ammunition, etc. These reserves have not been depleted during the past or previous years.

8197. I am very glad to hear that, because I recall that when I was in India I found at one moment the stores had been very seriously depleted, and it required a very great financial effort to replenish them?—I think it is immensely to the credit of the military authorities in India that they have made these great reductions without depleting the reserves to which Lord Hardinge has just drawn attention.

*Lord Hardinge of Penshurst.*] I entirely share that view. I now propose to put a question to the Secretary of State on the subject of Provincial finances and at the same time to make a suggestion. With the Committee's permission I will preface my suggestion by a few brief remarks on the subject of provincial self-government which I hope may not be regarded by the Committee as an unnecessary digression. I do not know whether everybody here is aware of the fact, but it was my Government who were the first protagonists of provincial autonomy. That was in a despatch written on the 25th August, 1911, in which, looking at the future, we wrote: "That the only possible solution of the political situation of the future would appear to be gradually to give the Provinces a larger measure of self-government until at last India would consist of a number of administrations autonomous in all provincial affairs with the Government of India above them all, and possessing power to interfere in case of mis-government, but ordinarily

Sir N. N. Sircar.

8225. Yes ?—Yes, I think that is so.

Sir N. N. Sircar.] That has been done in Bihar and Orissa.

Sir Hari Singh Gour.] Also in the Central Provinces.

Sir N. N. Sircar.

8226. I propose to ask some questions with reference to No. 137, the proposal which relates to the export duty on jute. I believe the Secretary of State remembers the evidence which has been given on this point by Sir Edward Benthall, amongst others. I am asking him, does he agree with his view, that this tax, having regard to the facts of the case, has the same incidence as Land Revenue ? —The Government of Bengal has always claimed that the jute export duty belongs to Bengal. I am not aware that the Government of India have ever committed themselves to the suggested principle. They are, nevertheless, as I am, fully aware of the special difficulties of Bengal which make it imperative to give some relief. As Sir Nripendra will see under the White Paper proposals at least half the jute export taxes must be assigned to Bengal, or, more strictly speaking, to the producing units, leaving a power to the Federal Legislature to assign a greater share. I do not myself think that it would be profitable to enter upon an economic discussion as to the nature of a jute export duty and its similarity to or differences from Land Revenue.

8227. If I may say so with great respect to you, I likewise agree. I only want to bring out one fact so that you may be pleased to consider it. So far as the economics are concerned (I mean in the economic sphere) is it not a fact that Bengal, as compared to other Provinces, may be described as a consumers' Province ? What I mean is this : The taxes which have been levied are on salt, wheat, iron, steel, cotton piece goods, and

(After a short adjournment.)

Sir Austen Chamberlain.] Sir Hari Singh Gour, you and Sir Phiroze Sethna, I understand, handed in a joint list of questions to the Secretary of State. Are you prepared to proceed with them ?

so on, and that really means profit to the other Provinces that Bengal has got to pay. Is not that the general situation ? At any rate, I find that is the view as expressed by the Government of Bengal ? —I do not think I should dissent from it.

Sir A. P. Patro.] Is not it a fact that Bengal is, on account of the permanent settlement, not able to make up the necessary revenue ?

Sir N. N. Sircar.] I have no objection to the question, but it only proves that Sir P. Patro, as other non-Bengalis are, is in a state of hopeless confusion over the permanent settlement.

Mr. Zafarulla Khan.] Do I understand Bengal is suffering from the permanent settlement ?

Sir N. N. Sircar.] Yes.

Mr. Zafarulla Khan.] Why not do away with it ?

Sir N. N. Sircar.] May I ask some questions on that ?

Witness.] May I ask for the authority of the Committee to publish the Memoranda which I have already circulated, namely, the Memoranda on the Courts, the Instruments of Instruction, the Railway Board, and also a note which I suggest circulating to the Committee upon the cost of the Legislature ? I understand there is no authority under which those reports can actually be published ?

Sir Austen Chamberlain.

8228. You mean you want them handed in and made part of our published proceedings ?—Made part of the proceedings. They are part of my evidence.

Marquess of Salisbury.

8229. They will be laid before Parliament ?—Yes, just in the same way as my other Memoranda have been.

Sir Austen Chamberlain.] I assume the Committee agrees. (Agreed.)

Sir N. N. Sircar.] I have no further questions to ask.

Sir Hari Singh Gour.] Yes.

Witness.] Sir Austen, I wanted to make a note about these questions ; I will just find the note I have got about



them. They are a series of very detailed questions about the minutiae of the present Indian Budget, and the present items that are included in the Defence field in India. As far as I can see, almost all of them involve tables of figures, and I would have thought that almost all of them should much more suitably be asked either in the Indian Assembly or in administrative debates in the House of Commons. I think the Committee will see at once that if we start upon these questions, they will get involved in every kind of minute detail of the Army administration under the present regime. How that is going to help us in the broader issues of the Constitutional problem, I myself cannot see.

*Sir Hari Singh Gour.*] May I be permitted to explain ?

*Sir Austen Chamberlain.*] Yes.

*Sir Hari Singh Gour.*] The object of the questions was not to get into the minutiae of the Civil and Military expenditure of India, but the object was to guide the Secretary of State in his search for economy, and to point out to him the avenues for retrenchment, both in the Civil and Military expenditure. The Secretary of State has rightly observed that these are questions more appropriate for discussion in the Legislative Assembly. Speaking for myself, these questions have been discussed time and again in the Legislative Assembly ever since its commencement in 1921, but the reason why we wish to draw the attention of the Joint Select Committee to the cumulative effect of these questions is that a great deal of economy is possible and should be the subject of early exploration on the part of the Secretary of State, which would balance the Budget and place the Provinces upon an even keel ; and it is only looking at that broad aspect of the question, that we gave notice of these detailed questions. It is not intended to draw the Secretary of State out upon each and every detail of the questions, but, generally, to assist him and to guide him in his search for economy.

*Witness.*] I would still have thought that that really was much more a series of administrative questions. I have got answers prepared for me here to a num-

ber of Sir Hari Singh Gour's questions ; there are pages of them ; most of them tables of figures. That being so, I would have thought it was much better, if Sir Hari Singh Gour thinks that it is a suitable occasion in this Committee to raise all these administrative questions, that I should hand in the questions which Sir Hari Singh Gour sent to me together with my answers to them.

*Sir Hari Singh Gour.*

8230. I am quite prepared to circulate my questions, as the Secretary of State is good enough to say that he will circulate his answers ?—I think that will be the better course. The questions and answers are as follows :

*Finance : Sir H. S. Gour and Sir P. Sethna.*

8231. What is the total expenditure on Army, Navy, Air Force and allied expenditure, such as loss on strategic railways, expenditure on Frontier Constabulary and armed police, Assam Rifles, Khasedars and other expenditure classed as political but intimately connected with Defence, such as the upkeep of the Rajmak and other Military roads ?—The Budget estimates for 1933-34 give the following net figures :—Army, 43 crores 84 lakhs 30,000 rupees ; Royal Air Force, 1 crore 58 lakhs 69,000 rupees ; Royal Indian Marine, 77 lakhs 1,000 rupees ; total, 46 crores 20 lakhs. As regards the other classes of expenditure to which this question refers, we have had occasion in connection with the Disarmament Conference to compile and publish a number of figures relating to Defence expenditure in the wider sense. These include all the various items which the expert bodies of the Conference have pronounced to be proper subjects for inclusion in a review of Defence expenditure ; and I cannot do better than base my reply on them. The figures I am going to quote relate to the financial year 1929-30, which was the year taken by the Conference for working purposes ; but annual returns will be rendered in future on the same basis. Under the general heading of Frontier Watch and Ward, including maintenance of various irregular corps, the cost is shown as about 2½ crores. The cost of the Eastern

Frontier Rifles was about 4½ lakhs. The estimated cost in respect of strategic railways was about 50 lakhs.

8232. What is Defence Expenditure on wireless ?

*Wireless.*

No separate charge under this Head appears in the Defence Estimates ; nor is there anything in the Posts and Telegraph Estimates to show how much, if any, of the total charges under the heading "Radio" are incurred on the part of the Defence authorities.

8233. What is the cost of Railway and Customs concessions granted to Military Officers ?

*Railway Concessions.*

No estimate can be made of the cost, if any, of the preferential rates given by the Railways to military personnel. A non-official witness before the Railway Retrenchment Committee estimated the loss to Railway Revenue on military account at a crore a year, including goods as well as passenger traffic. The Committee, however, reported that they had "not been able to verify this statement."

*Customs.*

The only concession granted to military officers is the free import of certain articles "which they are required to maintain for the due performance of their military duties," e.g., uniforms and rifles and saddlery of regulation military pattern. The cost would probably be negligible.

8234. What is the expenditure on Hill allowances military Schools, Ecclesiastical Establishments and Hospitals ?—No information is available regarding *Hill Allowances* as such. Under the Heading "Hill Sanitoria and Depots" is an entry of rupees 1,35,180.

*Military Schools.*

This is presumed to refer not to the technical training schools such as the School of Artillery, etc., but to non-technical educational institutions. The figures are as follows :—

	Rs.
Garrison, regimental, and Detachment Schools for British Troops .. ..	9,67,410

L106RO

Rs.

Garrison, regimental, and Detachment Schools for Indian Troops .. ..	1,09,000
Army Schools of Education, Belgaum .. ..	1,83,170
Lawrence Royal Military Schools	3,98,750
Prince of Wales' Royal Indian Military College, Dehra Dun	2,15,300
Kitchener College, Nowgong ..	60,340
King George's Royal Indian Military Schools (3) .. ..	2,49,660
Indian Military Academy, Dehra Dun .. ..	4,85,890

*Ecclesiastical.*

Expenditure on Ecclesiastical Establishments other than the Church of England, amounts to Rs. 4,86,000. The Church of England expenditure is charged to a Civil Head and no accurate estimate is possible of the proportion that should be debited to the Army. A rough estimate is Rs. 14,00,000.

*Hospitals.*

The full cost, including the pay of officers and men of the Medical Services, is Rs. 1,30,13,000.

8235. To what extent effect has been given to the additional cost entailed by giving effect to the Esher Committee's recommendation on the Indian Army, and its relation to the immediate Defence of India ?—The *Esher Committee*, apart from its recommendations on constitutional relations, made a large number of detailed proposals for bettering the conditions of service in the Indian Army. Many of these, which were recognised at the time by Indian public opinion to be required, were given effect ; but many further changes have since been introduced and it is not possible at this date to give any estimate of the additional cost of carrying out the Esher proposals.

8236. The cost of the Army year by year from 1910-1933, and the reasons for such additional cost ?—"I attach the figures of net military expenditure in India since 1910. They show a slight rise from 28 to 29 crores in the four years just before the War. There was, of course, a very large increase from 29 to 68 crores just after the War. The figure of 68 crores for 1921-22 was abnormal, as heavy charges were being

met for the operations in Waziristan and for post-War demobilisation. The figure of 63 crores for the following year represents a more normal average for that particular period. The increase to this figure was partly due of course to the rise in prices, but partly also to the thorough reorganisation of the Army in India that was then found necessary. It will be worth while to remind the Committee that before the War the Army was little more than a series of formations comprising a large number of individual Cavalry and infantry units with a small proportion of Artillery, Engineers and Pioneers. There were practically no ancillary services. Moreover, the men of the Indian Army horsed themselves, fed themselves, and contributed towards their own housing. Units were responsible for clothing the men. The administrative services obtained their personnel from the fighting units. The Indian Army is now horsed, clothed, fed and housed by the State; and three entirely new services have been introduced, viz., the Royal Air Force, the Signal Service and the Mechanical Transport Service. The figures show a progressive decrease on the whole from 1921 to 1931, and a much sharper decrease in 1932 due to the retrenchment campaign."

*Net Military Expenditure to nearest half crore.*

1910-11	..	..	28
1911-12	..	..	28.5
1912-13	..	..	28.5
1913-14	..	..	29
1921-22	..	..	68
1922-23	..	..	63.5
1923-24	..	..	55
1924-25	..	..	55.5
1925-26	..	..	56
1926-27	..	..	56
1927-28	..	..	54.5
1928-29	..	..	55
1929-30	..	..	55
1930-31	..	..	54.30
1931-32	..	..	51.76
1932-33	..	..	46.75
			(Revised Estimate).
1933-34	..	..	46.20
			(Budget Estimate).

8237. The saving effected if the pay of the All-India Services, henceforth re-

cruited is fixed on the Indian basis and all future recruits receive the pay so revised?—The only All-India Services at present recruited for are the Indian Civil Service and Indian Police. Assuming that by Indian basis of pay is meant basic rates of present rupee pay for the services, i.e., omitting overseas pay, the saving\* to be effected by ceasing to pay new entrants of non-Asiatic domicile from 1934 onwards overseas pay will rise from an immediate saving from 1934-5 (five months only from date of appointment) of £1,688 in the case of the Indian Civil Service and £450 in the case of the Police, to a saving in 1940 of about £33,000 and £10,000 respectively and, assuming the average number of premature retirements remains the same, to a maximum saving of £66,000 on the Indian Civil Service in 1951 and £25,000 on the Police in 1954. So long as recruitment may continue beyond 1940 at existing rates, this maximum saving would continue to be realised.

8238. The Index of prices at the time of the Lee Concession and the Index of prices now prevailing?—*Cost of Living*.—The working class cost of living figure for Bombay City† at the required dates was as follows:—

July, 1914	..	..	100
April, 1924	..	..	150
May, 1933	..	..	100
			(Latest Available).

\*Any estimate obviously depends upon the number of recruits taken and the period of continuance of recruitment—both uncertain factors. In the figures given, the assumption is made that recruitment for both these Services will continue until 1940 at any rate and that the annual intake of recruits of non-Asiatic domicile will on the average remain unaltered for this period, viz., 30 for the Indian Civil Service and 12 for the Police.

†This index figure is on the whole the most satisfactory figure maintained in India, but it is unaffected by variations in the cost of imported stores, and, as stated in reply to a question asked in the House of Commons on 13th February last, certainly cannot be applied without qualification to the case of members of the Superior Services serving in Bombay or elsewhere.

8239. The total saving likely to be effected by the abolition of the post of the Divisional Commissioners in all the Provinces in which they exist?—There are 44 Divisional Commissioners costing approximately £127,000 per annum. Their office establishments may be assumed to cost a further £20,000 per annum. Abolition might take place in one of two ways. Commissionerships might be abolished as incumbents of these posts retired in the ordinary course when a saving of approximately £147,000 per annum would be worked up to gradually; or all Commissionerships might be abolished at once when against the saving of £147,000 per annum would have to be set for a period the extra cost of the pensions of officers prematurely retired. If immediate abolition were decided upon, it may be assumed that all officers would have earned their full annuity of £1,000 per annum and further that the period by which retirement had been anticipated would be on the average five years. If all Commissionerships were abolished at once the saving, therefore, of £147,000 per annum would, for a period of five years or so, be offset by an increased pension charge of £44,000 a year for the Commissioners and of some increased pension charge (the amount of which cannot be estimated but would not be large) for members of their office establishments assuming that these could not be absorbed elsewhere. The probability that compensation would have to be given to members of the Indian Civil Service for the loss of prospects occasioned by the abolition of these posts must also be taken into account. The amount of compensation might, perhaps, be estimated at an allowance of Rs. 500 per mensem in respect of each post abolished and it may be assumed that these 44 allowances of Rs. 500 per mensem would continue to be paid over a period of some 25 years, *i.e.*, until the latest-joined recruit prior to the date of abolition had served his time. Against this increased expenditure of approximately £20,000 per annum for 25 years must, however, be set a reduction of the recruitment rate and this would from the outset be a material offset against the cost of the allowances and should in time more than absorb the whole of their cost. But it must not be forgotten that an alternative

agency would have to be provided for hearing revenue appeals and the like and that the cost of this would be appreciable though I have not been able to reduce it to figures.

8240. Is it not a fact that these Commissioners were appointed to discharge the threefold duties of Civil, Criminal and Revenue Administration and that long since they have ceased to exercise Civil and Criminal jurisdiction?—Yes, Commissioners have been relieved of judicial work both civil and criminal. But this alteration took place in the Regulation Provinces many years ago and at a later date in the non-Regulation Provinces. The fact, however, has no relation to the present scale of duties falling on Commissioners.

8241. The posts, the abolition of which were recommended by the Incheape Committee and which have not been abolished, or which if abolished have since been restored?—A statement showing the action taken on the recommendations of the Incheape Committee may be inspected at this Office if desired (no spare copy is available); a copy was also placed in the Library of the House of Commons. Many general recommendations involving reductions in staff were made which cannot be set out in manageable compass in a note. But the purpose of the present inquiry is presumably to ascertain what has happened in regard to important individual posts only, and I have had a list prepared of those about which information is available.

*Posts recommended for abolition and  
Action taken.*

1. Deputy Secretary, Legislative Department—Held in abeyance except during periods of pressure during Session.
- Inspector-General of Irrigation—Duties to be performed by Consulting Engineer (since abolished).
- Information Officer, India Office—Not abolished.
- Educational Commissioner—Not abolished but economies effected.
- Political Agent to Inspector-General, Police, N. W. F. P.—Not abolished.
- Inspector-General, Police, Ajmer—Not abolished but economies effected.
- Public Health Commissioner—Not abolished but economies effected.

Director Medical Research—Kept in abeyance, since filled.

Managing Director, Opium Factory, Ghazipur—Not abolished.

8242. The total amount of the Capitation Charges paid by India since 1905. Is it a fact that the refund if any, will only take effect from 1927 or thereabouts?—The total amount of capitation payments made since 1905 is approximately £34,170,000, including about £1,032,000 paid to the Air Ministry since 1920. "The questions arising out of the Tribunal's award, including that of retrospective adjustment, are still under consideration."

[Sir Hari Singh Gour.] I shall supplement those questions by a few questions of a more general character.

[Sir Austen Chamberlain.] Before you begin, Sir Hari, may I say that I do not think the Committee and the delegates, sitting as we are sitting to-day, could usefully examine details of economies. I hope your questions will be directed to general issues such as the Committee may really be expected to appreciate, and such as may be expected to influence their judgment upon the proposals laid before them.

Sir Hari Singh Gour.

8243. That is exactly the sort of question that I was going to put. I draw the attention of the Secretary of State to the Report of the Sub-Committee of the First Round Table Conference, Sub-Committee, No. 7, Defence, pages 62 and 63. In paragraph 3, at page 62, the Committee record the following decision: "The Committee also recognise the great importance attached by Indian thought to the reduction of the number of British troops in India to the lowest possible figure, and consider that the question should form the subject of early expert investigation." The Committee decided this and their Report is dated the 14th January, 1931. I wish to ask the Secretary of State if any action has been taken in the direction of obtaining expert advice on the reduction of British troops in India, in accordance with that Resolution of the Defence Committee?—Yes. We have had a number of expert inquiries, and, as a result of them, we

were able to make certain reductions last year. The general effect of the investigations that we have made goes to show that at present there is no further margin for reduction of expenditure upon a large scale without reduction of units, and we take the view strongly and definitely that it would be dangerous in those circumstances to make a reduction of units.

8244. Has the attention of the Secretary been drawn to the Report of the Simon Commission, in which the dual aspect of the British Army in India was emphasised namely its primary purpose, the defence of India, and, secondly, but none the less important purpose, Imperial Defence, and it was suggested that a contribution should be made from the Imperial Exchequer to the maintenance of this Army so far as it served this latter purpose?—As Sir Hari Singh Gour will remember, the capitation Tribunal that was appointed with the approval of the parties concerned, made an inquiry last year. They have issued to the Government a Report, and the Government are now considering that Report.

8245. But apart from the limited question of capitation, I understand the question to be a larger question of the necessity of maintaining the ratio of 2 to 1 of British and Indian troops which was settled upon immediately on the close of the Mutiny in 1857, and was done for a purpose which no longer holds good?—There never has been any question of having any particular expert inquiry to investigate percentages of that kind. The Committee and the Delegates know quite well what is happening with the general programme of Indianisation.

8246. So far as Indian Delegates represented in the Assembly are concerned, the only thing that they know is that a Military Training College has been established?—I am surprised they do not know a good deal more than that. I seem to remember that the Commander-in-Chief and Members of the Government have made more than one statement upon the question of Indianisation in the Assembly and have described how the programme of Indianisation is being expedited; how, for instance, a whole

Division, with all its ancillary requirements, is being Indianised, and so on.

8247. But the Secretary of State could not be unaware of the opinion of the Assembly on the subject of the Indianisation of a Division?—That may, or may not, be so, but that was not the purport of Sir Hari Singh Gour's question. Sir Hari Singh Gour's question implied that the Assembly knew nothing about what was happening.

8248. Turning to the Civil expenditure, it has been emphasised in more than one speech made by Honourable Members in the Indian Legislative Assembly that the basic pay of future recruits to the All-India Services should be on the Indian basis. Has the Secretary of State taken any action upon that?—On the All-India Services.

8249. Yes?—There have been a number of inquiries investigating the question of conditions for future entrants into the various Services. At present I am not able to make a statement on the subject, except to say that in certain Provinces, I think it is correct to state, reductions have been made for new entrants into certain of the Services.

8250. The point that I was making was that with the steady Indianisation of the All-India Services, the pay of future entrants should be the Indian basic pay, and not the English basic pay, and that a revised scale of salary for future entrants should be fixed, applicable to members of All-India Services only, and an overseas allowance being paid to those who are recruited from overseas?—I should have thought the real basis for the pay of any Service, whether it is British or Indian, is to get a figure under which you will get the men you want.

8251. It is only with reference to that, that I ask the Secretary of State that. Really, first-class Indians can be now obtained in India for the All-India Services on a salary substantially less than what is the present cadre?—As I say, the Government of India have been constantly considering the question of the pay of new entrants, particularly in recent months. Whether or not we shall be able to make changes, I cannot say now, but I would make this word of warning to the Committee, that suppos-

ing a change were made in the pay of new entrants, the actual saving to the Exchequer, whether Central or Provincial, would be comparatively small for a large number of years.

8252. And the longer the decision is delayed, the less will be the economy in the years to come?—I suppose that would be so.

Sir Austen Chamberlain.] Sir Phiroze Sethna,, do you want to add anything?

Sir Phiroze Sethna.] No, not just now.

Dr. Shafa'at Ahmad Khan.

8253. I would just like to put one or two questions. In the last paragraph of the Introduction to the White Paper, reference is made to the possibility of the reconsideration of the White Paper financial proposals. Would the Secretary of State be kind enough to explain if the stage for the reconsideration of those proposals has arisen now?—No; my answer would be, it has not. We have put into the White Paper a framework of financial proposals, that we think stands in the present circumstances.

8254. Then in reply to Question No. 7632, on page 873, of the Minutes of Evidence for July 21st, 1933 a question was asked by Lord Eustace Percy and a suggestion was made with which the Secretary of State seemed to agree. If that is so, and the form of reply to the question is correct, then the impression is likely to be created that not only should Federation be postponed and brought into existence when certain conditions are fulfilled, but also that Provincial Autonomy should be postponed for an indefinite period, until the finances have improved. Is that impression correct?—It is clear that there are financial difficulties to be overcome before the new Autonomous Provinces can be started, but it would be an entirely false impression, if it were deduced from that that indefinite postponement is contemplated. The point that I was making in reply to Lord Eustace Percy was simply that the financial difficulties are a factor of importance in relation to the establishment of Provincial Autonomy, and that when these difficulties are overcome, it is likely that we shall be very near the position when the financial difficulties in connection with Federation can also be overcome.

This is a very different thing from saying that either Provincial Autonomy or Federation is to be postponed indefinitely.

8255. I may say that the reply of the Secretary of State is very reassuring. I will only put one more question: Does the Secretary of State contemplate the possibility of establishing inter-regional Councils which will co-ordinate the financial activities in the various Provinces and will provide an essential link in the contact between the Federation and the Provinces?—We have not made any formal proposal on the subject. My own idea would be that under any system of Government such as we contemplate, there ought to be opportunities of discussion between the Ministers of the Provinces amongst themselves, and between the Ministers of the Provinces and the Federal Government; and when I say that, I mean particularly the Financial Ministers. I would have thought, as I think is the case in every other Federation in the world, there would be discussion of this kind going on from time to time.

8256. Could these informal discussions be crystallised and could they take the shape of regular inter-Provincial or inter-regional Councils, ultimately?—I would not wish to go so far as to define the way in which this contact should be maintained. I think it is one of those things that must develop according to circumstances; but I do say from every point of view the closer the contact between one Province and another, and between the Provinces and the Federal Centre, the better for everybody concerned.

Sir Austen Chamberlain.] Perhaps, I might say that that exhausts the list of Members and Delegates who gave notice to the Secretary of State of their desire to ask questions. We will now go round the Committee and the delegates in the usual way. These questions are without notice to the Secretary of State.

Archbishop of Canterbury.

8257. I only want to be sure in my own mind as to the relation between the two Houses of the Federal legislature. Am I right in thinking that it is quite clear that the Budget will be laid before both Houses?—Yes.

8258. That the appropriations in the form of demands will only be laid before the Assembly?—Yes, unless they are brought up by the Government to the Council of State.

8259. But normally they will be laid before the Assembly?—Yes.

8260. Then the Assembly has the power to reject or refuse or assent to any of these demands in the form of these appropriations?—Yes.

8261. That is not a power which in any way belongs to the Council of State?—His Grace, of course, is keeping in his mind a distinction between the votable and non-votable items of the Budget.

8262. Yes; I am leaving that out for the moment?—His question applies only to the votable items in the Budget?

8263. Quite. Then, do I understand that these appropriations in the form of demands are what is meant by Money Bills in paragraph 32?—No. A money Bill is a Bill for taxation. These would be motions for grants.

8264. Supposing the Assembly reduces or rejects any of these demands, then the Council of State comes in, because then the Government may move in the Council of State that it was desirable that there should be a joint sitting?—Yes.

8265. And the Council of State is empowered to direct such a Joint Sitting?—Yes.

8266. Therefore, before any rejection or reduction of any appropriation or demand was final, there would be a joint sitting in which the Council of State would have a very great influence?—Yes.

8267. That is what the process would be?—Yes, that is so.

8268. Then turning, if I may, just for a moment, to more general questions, some of which have been mentioned by Dr. Shafa'at Ahmad Khan, may I take it that the quotation in paragraph 32 of the Introduction, at the end of the paragraph on page 17, summarises sufficiently for our purposes the financial prerequisites for the starting of these Constitutional proposals, as apart from the functioning of a Reserve Bank, or are there any others that you would wish to add?—These proposals cover the whole field of financial safeguards. His Grace will, of course, remember, what I have

said about the general financial position of the Federal Government and the Provinces. Keeping that in mind, I would say that that paragraph does cover the field of the financial safeguards.

8269. Does it also cover what you would consider the necessary financial prerequisites for the functioning of any part of the proposed Constitution?—His Grace will see that paragraph 32 deals only with the Federation; it must, therefore, be supplemented with the paragraphs about Federal Finance, so far as they refer to the Provinces.

8270. Then you contemplate that the financial position of the Provinces must also be thoroughly satisfactory before even that part of the scheme can be entered upon, and by "satisfactory" I mean clear of deficit?—I would not restrict myself to any exact definition. Still less would I restrict myself to a phrase like "thoroughly satisfactory," not because I have not got clearly in my own mind what is contemplated, but because it is a phrase that may be defined differently by different people. Speaking generally, I should expect the Provinces to be on an even keel, that is to say, with no permanent deficits round their necks, before they could start upon a satisfactory career of Autonomous units.

8271. Then do I gather from you that you think that the financial difficulties of the Provinces, setting up Autonomy in the Provinces, may be greater than the financial difficulties in the way of the setting up of the Federal Constitution?—I would prefer really to add nothing to what I did say in some detail in my speech upon Federal Finance, and to what I have said in answer to a good many questions as to the date when either the Federation or Autonomous Provinces could be started. It is not that I have any doubt in my own mind, but with very complicated issues of that kind, I would rather not go on giving answers lest one answer that I give may appear to differ from a previous answer.

8272. I quite understand. I have only one more question of a general kind. Can you tell us at all what is in your mind as to the stage at which any financial enquiry, such as may be necessary before we can go further, should take place?

I think you mentioned such a possibility this morning. Would it be, in your judgment, before or after the passing of the Act?—I should very much like, in a question of this kind, to have the advice of the Members of the Committee and of the Delegates. My own view would be that whether the enquiry takes place during the passage of the Bill or immediately after the passage of the Bill, it must take place in time for Parliament to come to a reasoned decision for the final Executive act and that will have to be taken for bringing into operation the Constitution. Have I made myself clear?

8273. Yes. Of course, obviously, it would mean a good deal to Parliament to have that enquiry and its results before them before taking the ultimate responsibility of passing the Act?—There must, you see, be prescribed a date at which the Constitution, in whole or in part, comes into operation. Before that date is prescribed, Parliament and the Government must be in possession of the latest financial estimates.

*Sir Austen Chamberlain.*

8274. Just to get it clear at this point, by what process will that date for coming into operation be prescribed?—The date will be prescribed, in the case of the Federation, by Royal Proclamation; in the case of the Provinces, that is a matter for discussion; under the White Paper, we assume that it will take place under Order in Council.

8275. But in neither case do you propose in the White Paper that the date should be named in the Statute?—No; and for the reasons I have already given, namely, that there are so many uncertain factors in the picture.

*Archbishop of Canterbury.*

8276. Then, just to be clear, Secretary of State, you contemplate two kinds of financial inquiry: one which would be necessary, so to say, in any case, so that all the points that we have been considering should be fully and finally before Parliament; and another financial inquiry of a minor kind which will become necessary if the general condition of Indian finance were such that you felt you must fall back upon the powers



given, that you would have reached a position in which the whole matter would have to be reconsidered as to the Constitution itself, and call into conference again representatives of Indian opinion?—I think the second inquiry would inevitably emerge out of the first inquiry. Take the two contingencies. If the financial inquiry went to show that the position was satisfactory, obviously the other contingency would not arise at all. If, on the other hand, the inquiry went to show that there was not enough money with which to start the Constitution, I think immediately out of that inquiry would develop the further inquiry as to what should be the next step.

8277. Can you tell us at all the nature of the machinery which that inquiry would possess?—No, I should not at this stage at all like to be precise. My own view would be that it should be a small expert inquiry, the kind of inquiry that would not raise a lot of big political issues, questions, for instance, between one Province and another, but a small expert actuarial inquiry, really seeing how the balance sheet stood.

*Marquess of Zetland.*

8278. I would like to ask first for your ruling on this point, Mr. Chairman. Is this the appropriate occasion on which to ask the Secretary of State questions with regard to the powers of the Federal Legislature in the matter of currency legislation?—I would certainly not say that it was not a suitable occasion, but I would put this point to the Marquess of Zetland. We have had this very representative committee sitting upon the Reserve Bank and investigating amongst other questions, just the question he is now raising. I had hoped the report of the Committee would be ready to-day. Unfortunately, it is not, but even though it is not I would have thought it was much better to reserve a discussion of this kind of issues until the time when we have got the report.

8279. I accept that, of course. There is only one other matter upon which I would like to ask the Secretary of State a question with a view to clearing my own mind on the matter. The question is with regard to the financial adviser. The first question I would like to ask is,

what type of person is contemplated for filling the office of financial adviser? I presume that it will be a financial expert whose judgment on questions of high finance would be regarded generally as authoritative. Is that so?—Yes.

8280. Has the Secretary of State got in mind an official of any kind?—I certainly could not say I have any particular person in mind, but I agree with Lord Zetland the financial adviser must be a person of considerable standing and considerable expert financial knowledge.

8281. In regard to his functions, I am not quite sure exactly what his functions are going to be. Will he have an office and, if so, will his office be an integral part of the Finance Department of Government?—He must obviously have what staff and office accommodation he requires. It will not be a part of the Finance Department to this extent that the financial adviser will be responsible to the Governor-General and the cost of his staff, whatever it may be, will be a non-votable item. At the same time, I should hope that he would work in close relation with the Finance Minister and with the Finance Department.

8282. Yes, clearly if his advice to the Governor-General is to be of any value I presume he must be familiar with what is going on from day to day in the Finance Department of Government, must he not?—Certainly.

8283. But, as I understand it, his services are to be at the disposal, not only of the Governor-General, but of the Minister?—Certainly.

8284. So that the position as I picture it is this, but I do not know whether I am absolutely accurate. I picture an official of high position with an office in the Finance Department of Government who will be kept familiar with all that is proceeding in the Finance Department of Government, who will be available to the Ministers if they wish to consult him upon any financial questions, and whose duty it will be, if he thinks that the Government are contemplating anything which will touch upon the special responsibility of the Governor-General in matters of finance, at once to bring that matter to the Governor-General's notice. Is that, broadly speaking, what his position will

be?—Yes, broadly speaking, that is what his position would be.

Lord Rankeillour.

8285. There are some questions arising so directly out of Sir Malcolm Hailey's report, that I think it would be convenient if I asked him about them?—Yes.

8286. Sir Malcolm, in your Estimates have you taken account of initial non-recurring expenditure in setting the Provincial machinery going?—(Sir Malcolm Hailey.) In setting the Provinces going?

8287. In setting the Provincial machinery going?—That has been taken into account so far as regards the two new Provinces, Sind and Bihar and Orissa. As regards the other Provinces there would be little or no additional expenditure in setting the new machinery going, other than, of course, the expenditure on the new Legislatures of which we have taken account.

8288. I have heard it suggested that there would be a considerable displacement of personnel; some officers, perhaps getting towards their age limit, will not care to go under the new system. Do you think that that might lead to some temporary inefficiency in the collection of revenue and so on?—I should hope that the numbers affected by retirements of that nature would not be so great that there would be any inefficiency in the collection. It is a very large establishment concerned with the collection of Land Revenue, and if a few men, it might be, towards the end of their career retired under the new conditions that ought not to disturb the whole machinery.

8289. You do not think it would for a time have any appreciable effect on collection?—Not for a time, certainly.

8290. You refer to the loss of currency receipts. Have you taken into account any other expenditure that may be incurred as part of the process of setting up the Reserve Bank? Did not the Bill of 1928 contemplate some considerable expenditure in that regard?—The item of which we have taken main account here has been the temporary loss of currency receipts.

8291. Is that the only expense that will be incurred owing to this new financial arrangement of the Reserve Bank?—That will be the only direct loss to our revenues as revenues.

8292. But other expenditure will be incurred, will it not?—(Sir Samuel Hoare.) I do not think there will be other expenditure. Obviously, substantial reserves will be needed, but those reserves will be a transfer of reserves to the Reserve Bank. The capital of the Bank will have to be found. Here we are rather trenching upon a discussion about the Reserve Bank. I think Lord Rankeillour will find, when he has the Reserve Bank Committee Report, that the only new money to be found will be the share capital which will be found presumably by private subscription. I think Sir Purshotamdas Thakurdas said that.

Sir Purshotamdas Thakurdas.] Yes.

Lord Rankeillour.

8293. Perhaps I had better not pursue it in the absence of the report?—(Sir Malcolm Hailey.) I think there will be no additional expenditure which will affect our budget. (Sir Samuel Hoare.) Is that so, Sir Purshotamdas?

Sir Purshotamdas Thakurdas.

8294. I think the noble Lord is referring to the last page of Sir Malcolm's Memorandum, where loss of currency receipts under (a) (iii) is put down at one crore. Is it a loss or only income which is deferred until the Reserve Bank give you the surplus profits?—(Sir Malcolm Hailey.) Yes, I think I made that clear in the body of the Memorandum itself.

8295. I thought the noble Lord had perhaps overlooked it?—It is perhaps best to regard it as a temporary loss for budgetary purposes.

Lord Rankeillour.

8296. Do you contemplate that, suppose there were to be a considerable period of unrest in India, it might be necessary to strengthen the reserves of the Savings Bank?—(Sir Samuel Hoare.) I think we had better look into that question. Offhand, I would say that in

pose of ensuring that the Federal obligations of that State are duly fulfilled.

8327. You do not contemplate any Inspectors-General in the States?—No, not at all.

8328. With regard to the variable Grants in Aid, how would that work into the Legislative procedure. There was a good deal of talk about them this morning. There would be Grants in Aid. Will they come in the form of taxes in a money Bill with the necessary variable remissions, or will they come as appropriations not covered by a money Bill?—I will ask Sir Malcolm Hailey to deal with that question. (*Sir Malcolm Hailey.*) It is contemplated in the White Paper that the procedure will be automatic following the prescribed rule of assignment, and it would work in the following manner. The Province would have means of ascertaining from the Centre what sum, based on the estimates of the Central authorities it would be able to place in its budget as receipts under that head for the coming year. It would take account of those receipts, and they would form then a part of the provincial budget which in the same way has its own heads of receipts. No special appropriation would in those circumstances be required.

8329. Would not it come before the Federal Assembly?—No, because it would follow this rule of assignment which would be prescribed by an Order in Council.

8330. And once the Order in Council were made this would go on automatically without any opportunity for the Federal Assembly to interfere with it?—Yes. Under the terms of the White Paper this is an operation following an Order in Council, and the Federal Assembly has no power of varying it in any way.

8331. One other question on this head. A good deal was said this morning about the difficulties of procedure between the two Houses under Proposal 48. These would be got over if you had your appropriations covered by a Bill as they are here, would it not; then that would be a Money Bill?—Yes. If I might say so it might be a matter for the consideration of the Select Committee whether the Constitution should not prescribe that appropriations should be covered by an Appropriation Bill as in the case of Great

Britain. In that case the Bill itself would go to the Council of State.

8332. It would proceed just like the Taxing Bill would under the present proposal?—Yes.

Archbishop of *Canterbury*.

8333. But such a Bill could not be initiated in the Council of State?—No, but it would proceed from the Assembly to the Council of State in the same way as a Taxing Bill.

*Mr. Zafrulla Khan.*

8334. May I put it in this way, that the real difficulty is not whether you want to put it in the form of a Bill, or in the form of demands. The question is what do you want actually to do? Do you want them to be submitted to the Council of State in the ordinary way or not? Once that question is settled then you can put it in whichever way you like. The present position seems to me to be this: the Finance Minister, if he has a majority of the Assembly approving of his demands and willing to grant them, need not go to the Council of State at all, although the position may be that if there had been a Joint Session all those grants may not have been granted by a Joint Session; but, if any of his grants are reduced or rejected by the Assembly, and he is confident that a Joint Session will give them to him, he could appeal to a Joint Session. If you want to change that position you can change it by saying in your proposals that the appropriations or demands for grants will go to both, and that the grant is to go to Joint Session just as a reduction or rejection would go to Joint Session. The question is not whether they go in the form of a Bill, or whether they go in the form of demands?—That is a question of policy which I suggested the Select Committee might have to consider when it considers the relations of the two bodies of the Legislature. I was only indicating one form of machinery by which the budget could be brought before the Council of State if it were decided on a question of policy that it was necessary that that should be done.

*Marquess of Salisbury.*

8335. In that case the Council of State would be able to amend the Appropria-

tion Bill ?—In the same way as any other Bill resulting eventually in a Joint Session if there was a difference between the two bodies.

8336. It might result, or the other House might agree ?—It might agree.

Sir Akbar Hydari.] There must have been some reason for making this difference, and we should really like to know why paragraph 48 has been drafted as proposed : why, for instance, the Council of State is precluded from proposing with regard to a demand grant that so much shall be spent upon railways. It can oppose if that demand has been passed by the Legislative Assembly. Why is it not desirable for the Council of State to say that so much should not be spent on railways, but so much on aerodromes or aviation, because they are all Federal subjects.

Mr. Zafulla Khan.] The latter they could not say in any case. You cannot propose any increase.

Mr. Austen Chamberlain. Sir Akbar is putting a question to the Secretary of State. May the Secretary of State be allowed to answer ?

Sir Akbar Hydari.

8337. I mean the Council of State would say, "We want this demand to be reduced on railways," and they would say the reduction should be used for civil aviation. We should like to know why such a position which could be taken up by the Lower House should be denied to the Upper House ?—I think, Mr. Chairman, what I had better do is this. I have been impressed by the number of questions that have been asked upon this subject, and I would prefer to think them over. Certain new issues have been raised in the discussion, and I would prefer then to put in a Memorandum to the Committee, both to explain in rather greater detail the reasons why we made this proposal, and also to take into account some of the suggestions that have been made in this discussion. I think, if I might do that, it would be better than my attempting to answer a question of that kind on the spur of the moment.

Sir Austen Chamberlain.] I think it would be very helpful to the Committee.

Mr. M. R. Jayaker.

8338. May I suggest to the Secretary of State, in that case, would he be pleased to state to the Committee in that Memorandum for the benefit of the Committee what is the present procedure in the two Houses as regards demands for grants and appropriations, and how far the proposals made in the White Paper will be a departure from the present position. That will be helpful to the Committee and the Delegates ?—I will certainly do that.

Sir Manubhai N. Mehta.

8339. And also how it would satisfy the demands of the States ?—That also I was proposing to do.

Nawab Sir Liaquat Hayat-Khan.] On this matter, I might point out that the States are all unanimous, and we would request the Secretary of State when preparing his Memorandum to keep that point in view. We were under the impression that, as far as possible, the powers of the two Houses should be kept equal ; but in reply to certain questions asked by Lord Salisbury to-day, we were not quite satisfied with the position as it would be. We would, therefore, request when a decision is arrived at, that this point of view which comes unanimously from all sections of the States, will be kept in view.

Sir Hari Singh Gour.

8340. In that case, the Secretary of State may also further consider the question that if he accedes to the demand that is made by the States, whether there is any necessity for bicameral Legislation in the Centre, if the two Houses are merely replicas of each other ?—Yes. I will take all these points into account that have been raised in the discussion, and I will tell the Committee quite frankly that certain points have been raised in this discussion that had not occurred to me before. After all, that is one of the chief reasons why we are here.

Lord Rankeillour.

8341. Passing from that, with regard to the financing of the Reserved Services, is it not one of the strongest arguments for full Provincial Autonomy that as long

as you have Reserved Services, you concentrate public criticism and hostility on them. Would that not apply to the Reserved Services at the Centre, equally?—I did not follow the first part of the question.

8342. Is it not one of the strong arguments for full Provincial Autonomy that, as long as you have Reserved Services (I am talking now of Provincial Services), you concentrate public criticism and hostility on those Reserved Services, and, therefore, in the Provinces it is suggested that there should be no Reserved Services, but in Federal matters, would not that argument apply equally, that you would concentrate public criticism and hostility on the Reserved Services and that, therefore, there would be pressure to reduce them?—No. My own view would be that the cases are not analogous. I would welcome Sir Malcolm Hailey's view upon this point. My own impression is that a good deal of the trouble in the Provinces has been due to the fact that the two classes of Departments impinge so much upon each other. I think if anyone will look at the Departments of Administration in the Provinces, they will see that that is the case, whereas, in the Federal Centre you will have much more defined units, the unit of Defence I quite agree at certain points impinging upon other fields of administration; but, upon the whole, a self-contained unit, and you will, therefore, not have the kind of difficulties that you had in the Province in which you have two sets of Departments quite separate; but, in actual practice, those Departments in many directions impinging upon each other—Will you amplify that, Sir Malcolm? (Sir *Malcolm Hailey*.) I think that my answer would be in the same terms as that of the Secretary of State. It is a fact that in the Provinces much of the difficulty has occurred because the work of the various Departments does interlock to such an extent. That was one of the real arguments against dyarchy. You had really what was, in effect, a unitary Government in the sense that all its Departments were working together, but it was subject to two heads of control. That was a great argument against dyarchy, and it was the chief source of criticism. Where you have, as you will have in the

Central Government, a Department such as the Army, entirely self-contained, that element, at all events, will not be reproduced. There may, as I think Lord Rankeillour was suggesting in his question, be a tendency to attack the Reserved Departments, because they are Reserved, and because a Legislature which feels that it is deprived of power in any particular direction is always provoked to attack because of that interference with its powers. To that extent, there must be, of course, attacks upon the Reserved Departments, but they will not be attacks of the same nature as we used to have in the Provinces on such Reserved Departments as the Police, and so forth. One of our difficulties was that the Police Administration day by day might be made the subject of attack in the Legislature by question or criticism, and it was felt that the Legislature itself had no particular control over it or no final control over it. Now that question would not arise in regard to the Army. The Army as a whole, and its expenditure, might be the subject of attack, but it would not be its day to day operations, and I would use that as an illustration of the kind of difference that would arise in regard to the criticism of the Reserved Departments at the Centre, as compared with criticisms on the hitherto Reserved Departments in the Provinces.

8343. But when you are making up a Budget, Sir Malcolm, every item of expenditure, to some extent, impinges on the others, and the largest item impinges on them all, so, surely, there would be pressure from the other Departments to reduce the amounts for the Reserved Services, would there not?—Yes, as a budgetary matter, certainly.

8344. But also, would there not be pressure from the Provincial Governments, who would say: So much is taken up by Reserved Services at the Centre that there is not enough over to ease our own burdens? That would be a new form of pressure?—That is a form of pressure which at present, undoubtedly, we are accustomed to.

8345. But would it not be increased, under these conditions, with the greater powers of the Provincial Legislatures?—Only to the extent that the Autonomous Local Governments might have greater power and greater position themselves

From the public point of view, it would be very much the same.

8346. But it is not really a matter of opinion ; almost one man is as good as another ?—Yes, certainly.

8347. Then there is only one other sphere upon which I want to ask Sir Malcolm Hailey a few questions. You remember some of the Service officers were alarmed lest the money should not be forthcoming to pay the claims which they were legally entitled to. I think there is no automatic drawing on what we should call here the Consolidated Fund for salaries in India, is there ? As you know, certain salaries, like the judges' salaries, are automatically paid out of the Consolidated Fund—not voted ; but there is no such arrangement in India ?—No, there is no such arrangement there.

8348. Now I am bound to suppose that in some instances things will not go quite smoothly. Supposing there should be some Constitutional difficulty, could the Governor-General order payments out of the Exchequer on his own prerogative without going through the Ministry of Finance ?—In the last resort, he could. In discharge of his special responsibilities, require payments to be made in that way.

8349. Only if that amounted to a breakdown of the Constitution ?—No.

8350. He could order payments to be made ?—If he, on examining, as, no doubt, he would examine from time to time the receipts and expenditure of his own Local Government, foresaw that at any particular stage the expenditure would be so much in excess of receipts that there would be insufficient to meet the pay of the Services, he could, under his special responsibilities, at that stage stop all further expenditure, except expenditure on the Services.

8351. And he could direct that the expenditure on the Services, what I may call statutory expenditure, should be made, that payment should be made out of the Exchequer on his own prerogative ?—Yes, he would issue those orders through his Finance Department in the usual way as head of the Government.

8352. Could he raise money on his own prerogative on Treasury Bills ?—No. The preceding situation, to which I gave an answer, was one in which he merely foresaw that money was getting short.

I think Lord Rankellour's present question refers to a position in which he found that money did not exist at all.

8353. The Exchequer wanted replenishing ?—In that case, he would have to, if necessary, override his Ministers to the extent of imposing taxation under his own powers ; and if it were likely that there would be delay in the operation of that taxation, he would under his own powers have to raise a loan from the Central Government, or otherwise ; but that might amount to a complete breakdown of the Constitution in which he would take over the Government to himself.

8354. Could he under no circumstances raise a loan ?—When he overrides his Ministers and takes over all the powers of the Local Government, then he, as the Local Government, would raise the loan.

8355. He would raise the loan only after having become the Government ?—Or overriding. It would be just a question whether it would be considered merely overriding in discharge of his special responsibilities or acting under Proposal 105, which describes his powers in the event of a breakdown of the Constitution.

8356. Have you considered that for the purpose of discharging what I may call statutory liabilities, he might have a fund of his own to which certain sources of Revenue could be assigned ?—That question has been raised, Sir, but when we have considered a proposition of that nature, we have rather looked at the figures of what would be necessary to the Governor to maintain the Services as a whole, and not merely to meet statutory payments. It would be necessary for him to provide not merely for the payments to the All-India Services, but for the payment of all Services in the Province. I have some figures here which would show what the relative proportion of payments to Services is, as against other expenditure of a Local Government. If it would interest you, I might say that in the United Provinces the payment to Services, as a whole, amounts to 40 per cent. of the total expenditure of the Government ; the remaining expenditure is the debt charges and pensions, and in the large number of payments which go

in the form of grants to Local Governments, payments for keeping up communications, and so forth; but in order to maintain the Services, the Governor, therefore, would have to have at his disposal something like 40 per cent. of the total income of the Province.

8357. Statutory payments?—(Sir *Samuel Hoare*.) Sir Malcolm is making the practical point that it is very difficult to draw a distinction for this purpose between one Service and another. The statutory payments would be far less than that figure which he is including in that payment, the payment for all the Services, whether Secretary of State Services, or not. (Sir *Malcolm Hailey*.) In our Local Governments, what Lord Rankellour has described as the statutory payments, that is to say, the payments to the Governor, the Judges, and the All-India Services, which, I think, were, perhaps, in his mind, amount only to 66 lakhs out of 1,330 lakhs, a small part. I was, therefore, directing the attention of the Committee to the fact that the Governor in order to carry on the administration in the event of money being insufficient to pay the Services, would have to have in his possession not that small sum of 66 lakhs, but a larger sum amounting to 40 per cent. of the whole Revenues of the Province. That, of course, would greatly increase the difficulty of making any arrangement such as that suggested by which there should be placed in some reserved purse of his own sufficient to meet the pay of the Services.

8358. But could that be done by the Governor-General himself—a fund of that sort? I throw it out, I do not press it. Only one more question. With the doubtful exception of paragraph 141, any powers of taxation over the States would be derived from the Instrument of Accession, would it not, and not from anything in the Constitution Act?—The form, as I see it, would be that the Instruments of Accession would accept this or that section of the Constitution Act; I imagine that is the form the Instrument of Accession would take. They would say, "We accept this Act, to this and that extent."

Lord *Eustace Percy*.

8359. How do you contemplate that the Secretary of State or the Crown will

acquire the power to accept an adhesion from a State on condition? Will the Constitution Act lay down the limits of the discretion of the Crown?—No. In the first instance, the discretion is with the Crown.

8360. Can the Crown in its exercise of paramountcy commit the future Federation without the consent of the House of Commons?—(Sir *Samuel Hoare*.) Lord Eustace Percy is raising a Constitutional point. Off-hand, I cannot say whether there is anything in it, or not. My inclination is to think that there is not, but I should like to look into it.

Sir *Reginald Craddock*.

8361. Mr. Chairman, I would like to ask the Secretary of State one or two questions. He has used the phrase of the Provinces being on an even keel. Does he mean by that merely a balanced Budget under existing circumstances, or finances in which some of the economies, very stringent economies which the Provinces have had to make, have been, to some extent, at all events, restored?—I think we should have to judge every case upon its merits. What I would wish to avoid is any idea that there is a large fund upon which the Provinces can draw, and that all they can expect if Provincial Autonomy is to start at a reasonably early date, is that they will start with a balanced Budget. When I am asked what I mean by a balanced Budget, I would say a Budget not for a particular twelve months, but a Budget that looks as if it will carry them on for a bit. Sir Reginald asked whether in a balanced Budget I contemplated emergency expenditure. Was that his question?

8362. No. Very large economies made under circumstances of great pressure: Does he contemplate that in respect of some of those economies, at all events, the expenditure will be restored before he would reckon his Budget at an even keel?—Yes; I am contemplating that the special inquiry to which I have drawn the attention of the Committee would take into account the conditions in each Province; but, if Sir Reginald is anxious about such questions as the emergency pay cuts—I think I am right in saying that that is one of the issues that is in his mind.

8363. That was one ; there are one or two others ?—I should certainly contemplate that an even keel for a Province would mean the power to remit cuts of that kind.

8364. There are certain Departments of which I have had considerable experience in the two Provinces that were under my charge—Irrigation and Forests. I think we have heard before the Committee by one of the Service Members—at all events, it is a matter of fairly common knowledge, that those Departments have been considerably cut, especially the Forests ; that numbers of Superior Officers have been reduced, and that the Departments carry on now in an emergency condition. For example, the reduction of the Public Works and Superintending Engineers in the Province, the Conservators of Forests, and so on. Those may be necessary as emergencies, but if the Forests estate which is very important, is to develop with any success, you must have sufficient supervision over the Forests, and, similarly with Irrigation. I am given to understand that in the Central Provinces the charge of Irrigation has in many cases been given over to the Engineers of Roads and Buildings, which, of course, would only be a very temporary arrangement, but those who know are aware of the difficulties that an engineer who is only accustomed to roads and buildings has in controlling and administering a large Irrigation works. Would the Secretary of State then consider that some restoration, at all events, of the efficiency of Services of that description should be made as a condition precedent, to use his own phrase again, so that the Province may be on an even keel ?—I would certainly assume that in this financial inquiry an account should be taken of the assets of a Province and of the best way to develop them, and so on ; but I cannot go further than to say that each Province must be considered upon its own merits.

8365. I understand that, Secretary of State, but I wanted to know whether he would not contemplate that there would be, at all events, some restoration of efficiency and supervision, which have had to be sacrificed on account of stringency of finance ?—I would have thought it was impossible to go further than

this, to say that in the inquiry into the financial position of a Province upon the eve of Provincial Autonomy coming into operation, account must be taken not only of the Revenue, direct Revenue and direct expenditure of a Province, but also of its assets, and whether it can maintain the kind of organisation, without which its assets would go to seed.

8366. Then there is another point I would just like to ask a question about ; it is not quite plain. What are the contemplated arrangements about the possible expenditure on, say, famine relief ? If a Province is in very distressed circumstances, how will expenditure on famine relief, which might in conceivable circumstances be very large, be obtained ? What are the resources ?—I should say that a famine which does not amount to a national emergency would have to be met by the Province. If it was of such magnitude as to amount to an emergency, then the emergency provisions in the financial paragraphs would come into operation.

8367. I mean, for example, an expenditure of, say, a couple of crores, in the Central Provinces, which has been attained in my experience. Would the Federal Government lend that money ? How would the Province obtain that ?—(Sir *Malcolm Hailey*.) I think, Sir, it will be a matter for the consideration of the Committee, in the first instance, whether the Constitution should contain regulations similar to those in our present Devolution Rules which prescribe that each Province must keep up a famine reserve fund. Sir Reginald knows the present procedure there quite well. That is to say, that each Province has year by year to set apart a certain sum of money which stands as a reserve for expenditure on famine. When the reserve has reached the prescribed figure, the Province has no further obligation to add to it. If the expenditure involved in meeting a famine exceeded the sum which was at the disposal of the Province by virtue of that reserve, then, in the first instance, it would have to borrow from the Central Government in order to meet that expenditure, and it would have to repay that expenditure in the ordinary way by equated payments. I can conceive circumstances in which the famine might be so severe that it would actually be necessary for the Central



Government to make a grant to it for that purpose; but what I have described is, I think, the normal procedure that would be followed in the case of a famine.

8368. I am very glad to hear that. What I did not know was whether under the new Constitution arrangements of that sort would still be continued?—I might venture to suggest that there are one or two matters in our Devolution Rules which will have to be brought to the notice of the Joint Select Committee. The famine reserve fund is one, and the constitution of a Finance Department is another. They do not form part of the White Paper, and at some stage it may be necessary for the Committee to consider them, with a view to making recommendations about them.

*Sir Joseph Nall.*

8369. With regard to Proposal 145, may that be described as retaining in the hands of the British Government, subject to the control of the Imperial Parliament, certain control over financial matters?—(Sir Samuel Hoare.) That would be a very wide question to base upon No. 145, and it would be a very wide answer if I had to give an answer to it based upon No. 145.

8370. May I summarise what it does? Under Proposal 139 it retains in the hands of the British Government the allocation of the Provinces' Income Tax. Is not that so?—Sir Joseph means over the plan of distribution?

8371. Yes?—Yes; we are contemplating an Order in Council for that.

8372. It also retains for prescription the basis upon which any part of the Provincial income tax is to be allocated to the Provinces or to a particular Province?—It means, in a sentence, that under the Constitution Act and under the Order in Council we keep the general framework of the way in which the taxation is going to be divided under the control of Parliament; but saying that I do not think goes half as far as the question that Sir Joseph has just suggested.

8373. So far as it does go, would the Secretary of State say whether any period for the exercise of this power is proposed, or is it permanently retained?

—Yes; if you will read the proposals about the division of the income tax you will see there is a period contemplated.

8374. That is what I want to have made clear. You have made in Proposal 139 a certain prescription for three years and another one for the next seven years, but, as I read the proposal, the subsequent period has no time-limit to it. Is that so?—There is a prescription. For the first period we contemplate this period 10 years.

*Lord Eustace Percy.*

8375. So far as the basis of the prescription is concerned, that basis, whether you take the basis of residence or of collection and so on, may be varied by Order in Council from time to time, and probably would be varied after five years, after expert inquiries into the conditions of the Province?—Quite possibly.

*Sir Joseph Nall.*

8376. That power would still remain for a further revision after 25 years or more; is not that so?—No. It is inconceivable to me that the original prescription would not have been made before 25 years. When the original prescription is made, then we contemplate the arrangements continuing without further intervention from Parliament.

8377. I understand from your answer to Lord Eustace Percy just now it will be competent to vary the original prescription at a later date?—No. If I gave an answer that implied that, I did it under a misunderstanding. I am not contemplating a change after the original prescription.

*Lord Eustace Percy.*

8378. May I suggest to the Secretary of State that there is a point to be considered here? I think the distribution of income tax, it is generally admitted, would have to be made on the basis of quotas fixed from time to time as a result of expert inquiry?—Yes.

8379. And if the Secretary of State does want to reserve permanently the prescription by Order in Council of those quotas, but it is purely a technical operation and he means to keep his power open for that technical operation, but he means to limit it so that it does not give the

Crown power by Order in Council to prescribe either the percentages or whatever it may be of distribution, I think there is a point to be considered?—Yes; I am obliged to Lord Eustace for making the suggestion. I will look into it.

*Sir Joseph Nall.*

8380. Turning to Proposal 141, generally by Order in Council contributions from the State Members may be prescribed. Is it intended to retain that for revision from time to time, or is that only an initial provision?—We contemplated that it would be an initial Act, not a permanent power of intervention.

8381. Is it fair to say that the amount, or the incidence, of this provision of the States will be governed by the surcharges levied by the Federal Legislature?—I think if there is a difference between Sir Joseph and myself it is this: He seems to think that we intend to prescribe a whole series of details and to prescribe them from time to time. That is not our intention. Our intention is to prescribe the general principles.

8382. Having prescribed the general principles in Proposal 141 does it not follow that, unless the basis is changed from time to time, the amount actually to be paid or contributed by the States will be governed by the volume of surcharge levied by the Federal Legislature?—I think that is so.

8383. To that extent, the Federal Government will affect the volume of taxation to be paid by the States?—I think that is bound to be so, but let no Member of the Committee forget the fact that the Federal Government is a Government composed of the States as well as of British India.

8384. So long as the power to prescribe indicated by Proposal 141 is proposed to remain in power in case of difference of an acute character, the basis could be altered by an Order in Council?—It is very difficult to follow these very detailed questions. My view would be that it might often be necessary to have a new Order in Council, but I should like to look at the question and to see what its implications are.

J.106RO

*Sir Austen Chamberlain.*

8385. Does not paragraph 141 relate to surcharges imposed by the Federal Legislature?—Yes.

*Sir Austen Chamberlain.*] Has that anything to do with an Order in Council?

*Sir Joseph Nall.*

8386. Proposal 141 says: ". . . each State-member . . . will contribute to Federal revenues a sum to be assessed on a prescribed basis." The Order in Council could prescribe the basis on which the States should make a corresponding contribution as and when these surcharges are made?—I think we must look further into the use of the word "prescribed" and the word "prescription."

*Sir Austen Chamberlain.*

8387. Does paragraph 145 which defines "prescribed" refer to the word "prescribed" in paragraph 141?—Sir Austen has put his finger upon the point which had just occurred to me. I am not sure that it does, and I would like, after this discussion, to look into it. I think Sir Austen is right. I think there is an error in drafting here.

8388. Would it be possible for you to look into that later this afternoon and give a considered reply to Sir Joseph Nall's question to-morrow?—Yes, I think we could certainly.

*Lord Rankellour.*] And paragraph 144 apparently contemplates no time limit.

*Sir Joseph Nall.*

8389. There again, surely that is a remaining power where prescription will be resorted to from time to time?—These very intricate questions do make it extremely difficult and they do point very much to Members of the Committee and Indian delegates following, if they would, the suggestion that we have given them two or three times, namely, that they should give me notice of them wherever they can.

*Sir Austen Chamberlain.*] I am sure we all recognise the extreme difficulty of dealing with all these matters of such detail, and, at the same time of such importance, in answer to questions of which you have had no notice, and it

was for that reason that I suggested that perhaps you would give a considered reply to-morrow, if Sir Joseph Nall was good enough to accept that suggestion.

*Sir Joseph Nall.*

8390. May I say, Sir Austen, I have no desire for a moment to ask questions which would be difficult to reply to, if they could be asked in writing; that would be obviously more agreeable to everybody concerned; but these questions which I ask now arise from questions answered this morning, and were not questions which I originally intended to put. They have arisen from questions which were asked this morning. Departing from that, what I want to ask now is this: Whilst the allocation of these revenues may be prescribed by Order in Council, and not by the Federal Assembly who will prescribe the precise detail of the income tax, its amount, and the scale of incomes to which it will be applied?—I think that again is a question that I had better deal with to-morrow in a general statement.

8391. Is it intended that the scale of income tax should be determined by the Assembly, or by both Houses?—Is it the intention of the authors of the White Paper that the scale or rate of income tax should be determined by the Assembly, or by both Houses, as the case may be?—By both Houses.

8392. That is the intention?—Yes.

8393. Does it not follow that if the ultimate destination of these revenues may be prescribed by Order in Council that will profoundly affect the policy of the Assembly as to whether it shall levy income tax at a high rate or a low rate, or at all?—No, I do not think so, because the Assembly will be in no doubt as to the terms upon which the income tax is assigned.

8394. The Assembly will be required to provide for a certain aggregate revenue in the budget, and would it not be faced with this, that if it raises a portion of that revenue by income tax the incidence will be over a certain restricted field, whereas, if it raises that revenue by indirect taxation it will be over a wider field, and if the

destination of the revenue from income tax is upon a basis from which a large proportion of the Assembly dissent they will be disposed to raise the revenue indirectly rather than directly?—I should not have thought so. You will have the two points of view in the Legislative Assembly, the one point of view tending towards supporting direct taxation, the other point of view, I dare say, strongly represented by the States, in favour of reducing indirect taxation.

*Lord Eustace Percy.*] Is there a misunderstanding here? Does Sir Joseph Nall read this prescription as to the proportions in which income taxes will be assigned in the Governors' Provinces as meaning the proportions in which it will be levied in the Governors' Provinces? That is not intended.

*Sir Joseph Nall.*

8395. No. What I am asking is this: If the product of the tax is assigned in a manner from which any considerable element in the Assembly dissents, the Assembly may be disposed to raise its revenue by some other tax the destination of which is not subject to an Order in Council?—There would be a great many cross views in an Assembly (there are bound to be) but I do not see the kind of contingency arising that Sir Joseph contemplates.

8396. Then may I ask does the Secretary of State think that this control by Order in Council is compatible with what is called fiscal autonomy?—It is not a control in the sense that Sir Joseph is suggesting. It is the framework of the scheme upon which taxes will be assigned. It does not seem to me to have anything to do with the fiscal autonomy convention at all.

8397. Is it not, in fact, the power to divert to the Provinces a considerable proportion of the Federal tax?—Surely that is inherent in any Constitution scheme, namely, that you must make an assignment of the revenue between the Centre and the units. It is nothing more than that.

*Sir Austen Chamberlain.*

8398. May I ask a question? Is this assignment of a proportion of income

tax to the Provinces meant to be a recurring operation, or an operation undertaken once and for all?—It is meant to be an operation taken once and for all, and arising out of the Constitution Act.

8399. I think that is what you had in mind?—I would go further, Sir Austen, and say that if we can make the financial arrangements in time it might well

be advisable then to put the arrangements in the Constitution Act.

Sir Joseph Nall.

8400. I am still not quite clear as to whether this overriding power of allocation of revenue is compatible with what is called fiscal autonomy?—I do not see any connection between the two. It may be very stupid, but I see none.

(The Witnesses are directed to withdraw.)

Ordered : That this Committee be adjourned to to-morrow at 10-30 a.m.

28th July 1933.

Present :

The MARQUESS of LINLITHGOW in the Chair.

Lord Archbishop of Canterbury.  
Marquess of Salisbury.  
Marquess of Zetland.  
Marquess of Reading.  
Earl of Derby.  
Earl Peel.  
Lord Ker (Marquess of Lothian).  
Lord Hardinge of Penshurst.  
Lord Irwin.  
Lord Rankeillour.  
Lord Hutchison of Montrose.

Major Attlee.  
Mr. Butler.  
Major Cadogan.  
Sir Austen Chamberlain.  
Mr. Cocks.  
Sir Reginald Craddock.  
Mr. Davidson.  
Mr. Isaac Foot.  
Sir Samuel Hoare.  
Lord Eustace Percy.  
Miss Pickford.

The following Indian Delegates were also present :—

INDIAN STATES REPRESENTATIVES.

Rao Bahadur Sir Krishnama Chari.  
Nawab Sir Liaqat Hayat-Khan.  
Sir Akbar Hydari.

Sir Mirza M. Ismail.  
Sir Manubhai N. Mehta.  
Mr. Y. Thombare.

BRITISH INDIAN REPRESENTATIVES.

Dr. B. R. Ambedkar.  
Sir Hubert Carr.  
Mr. A. H. Ghuznavi.  
Lt.-Col. Sir H. Gidney.  
Sir Hari Singh Gour.  
Mr. M. R. Jayaker.  
Mr. N. M. Joshi.  
Begum Shah Nawaz.

Sir A. P. Patro.  
Sir Abdur Rahim.  
Sir Phiroze Sethna.  
Dr. Shafa'at Ahmad Khan.  
Sardar Buta Singh.  
Sir N. N. Sircar.  
Sir Purshotamdas Thakurdas.  
Mr. Zafrulla Khan.

The Right Hon. Sir SAMUEL HOARE, Bt., G.B.E., C.M.G., M.P., Sir MALCOLM HAILEY, G.C.S.I., G.C.I.E., Sir FINDLATER STEWART, K.C.B., K.C.I.E., C.S.I., are further examined.

The following statement was made by the Marquess of Linlithgow, Chairman of the Committee :—

It may be to the convenience of the Indian Delegates that I should say a word at this stage upon the matter of

our arrangements for the autumn. First of all, I should like to make it quite clear that the invitation extended to the Delegates by the Joint Select Committee to attend and confer with the Committee implies an invitation to the Delegates to return in October and to continue to give to the Committee the benefit of consultation with them until such time as the Committee may reach that stage in its deliberations which will require that it should sit alone.

I have been asked by several of my friends of the Indian Delegation to provide them with a programme of our work in the autumn. They will appreciate my difficulty in attempting any very exact estimate of the time required for the bearing of the remainder of the Secretary of State's evidence and of the evidence of such other witnesses as may be called. Again, I find considerable difficulty in estimating the time likely to be occupied by any consultations between the Committee and the Indian Delegates which may take place at the conclusion of the evidence.

In this connection, it does appear to me that the nature of our proceedings since the Secretary of State went into the witness's chair has an important bearing upon the question of the amount of time likely to be required for these final discussions. The examination of the Secretary of State, as far as it has proceeded, has not only made plain to us all what is in the mind of the Government and of Sir Samuel Hoare; it has also, in great degree, enabled the Committee and the Delegates both to ascertain each other's views and also in large measure to understand the arguments which inform these views.

Indeed, if I may say so, and remembering always that in the nature of the case, the Joint Select Committee will not arrive at any formal decisions while in consultation with the Indian Delegation, it does appear to me that by his action in giving evidence before the Committee, the Secretary of State has brought the Delegates into much closer touch and understanding with the Joint Committee than could have been achieved by any other means. With this in mind, it does at this stage appear to me that no great amount of time need be consumed by any discussions that will be required after the list of witnesses is exhausted, and

that the examination of the Secretary of State, when that is complete, will to a large extent have effected those purposes which it was sought to attain, and which we all had in mind when we contemplated the discussions that are to take place after the evidence.

Certain of the Indian Delegates will not, I understand, find it possible either to remain in this country or to return to it in the autumn. Speaking for the Committee, I may be allowed to say that we shall regret their absence, but understand their difficulties.

I can readily appreciate the great inconvenience to the Delegates which must result if I leave them in complete uncertainty as to how long their presence with us will be necessary in the autumn. I have explained to them my difficulty in constructing any exact time-table for the autumn. When I have had time to make a complete review of the position, I may find myself able to attempt an estimate, but such estimate is bound to be subject to the obvious uncertainties of the type of work upon which this Committee is engaged.

If I feel that I have succeeded in putting together anything of value, I shall at once take steps to communicate it to the Indian Delegates. In this connection I should welcome an early indication from the Delegates as to whether on the whole they would like me, after full consideration to fix and announce as soon as possible, and to fix finally and irrevocably, a date upon which, whatever then may be the state of our business, the period of consultation between this Committee and the Indian Delegates will cease and be concluded, and so therefore the date upon which Delegates will be free to return to India, and upon which they may rely absolutely in making their plans and engagements. If this course is on the whole that which the Indian Delegates prefer that I should take, I am prepared, subject to the approval of the Joint Select Committee, to pursue it and to do my best, taking all things into consideration, to decide upon a date which should in my judgment provide them with every reasonable prospect of completing the process of consultation with the Committee. I think there is this added advantage in the course I am considering, that it would altogether

preclude that which I for one would wish to avoid, namely the risk of a gradual and progressive wastage of the Delegation which might seriously prejudice its representative character. I hope I may have communicated to me as soon as possible the view of the Delegation upon the matter.

Marquess of *Salisbury*.] I do not know whether my colleagues of the Joint Committee and the Indian Delegation will allow me to say a word to the Secretary of State. I do not know that I am qualified in any sense to voice the opinion of the Committee, but as I have been perhaps rather persistent in the questions which I have put to the Secretary of State, and inasmuch as he has always replied to me with the greatest thoroughness, and I feel extremely grateful to him, I should like to say on behalf of the Committee and on behalf of the Delegation, how very grateful we are to you, Secretary of State, for the attention which you have given to our questions in the witness chair. May I say that I think we have all admired very greatly not only your consideration but also the intellectual achievement of dealing with these very intricate questions on all sorts of subjects and dealing with them so fully as you have done? I hope I shall be allowed to say how personally very grateful I am. That is a small matter, but I believe the Committee and the Delegation as a whole are equally grateful.

Sir *Austen Chamberlain*.] May I, as a senior Member of the House of Commons, and, I feel sure, speaking their sentiments, associate myself with what the noble Lord has just said? I think we owe a very great debt of gratitude to the Secretary of State for the assistance which he has given to us by appearing as a witness before us. We have all admired the amplitude of his knowledge and the candour of his answers, and, if I may add one word, the good temper which he has shown throughout what must have been, in this room and in this weather, a most trying ordeal.

Major *C. R. Attlee*.] May I add a word on behalf of the Secretary of State's political opponents in the House of Commons, to say I fully agree with what Sir Austen had said on behalf of the Members of the House of Commons?

I would like to associate the Opposition with those sentiments.

Marquess of *Reading*.] May I say one word to associate myself also with what has been said by Lord Salisbury and Sir Austen Chamberlain? I am quite sure that all of us who have sat here and who have had very considerable experience amongst us of public affairs join in the tribute of high admiration that has been paid to the Secretary of State, not only for his work, but for his imperturbability, for his invariable courtesy, and for his persistent attempts to meet every possible view that has been suggested.

Mr. *M. R. Jayaker*.] May I say a few words on behalf of myself and a few of us? I associate myself with the remarks made by Lord Salisbury and Sir Austen Chamberlain, Major Attlee and Lord Reading. I shall only venture to express one hope, my Lord, because I am not aware how his evidence is being reported in India. If it is being properly reported I have a hope that in India there will be considerable satisfaction felt with the way in which the Secretary of State has acquitted himself. I have no doubt, my Lord, that many of us feel very satisfied with the way in which he has given his answers, especially the resources which he has displayed, the intellectual grasp of the entire scheme of the White Paper, and, although some of us are anxious to go further and to secure improvements in the White Paper, we realise that the fate of the White Paper is entirely safe in the hands of the Secretary of State. I would not like to say anything more, but I do associate myself with all that has been said by previous speakers on this point.

Sir *Hari Singh Gour*.] I wish to associate myself wholly and entirely with what has fallen from the lips of the previous speakers. I have been particularly struck by the plain and straightforward statements which the Secretary of State has made in his very long examination before the Select Committee and the Indian Delegation, and I echo the hope that if his evidence, or an abstract of his evidence, is made public in India, it will create a very favourable impression in my country as to the future of the Indian Constitution.

There has been a great deal of misunderstanding in India as to the nature and scope of the White Paper, but many of the doubts which people in India raise will greatly be allayed if the statement, either in whole or in a summary thereof, is published in India.

*Sir Akbar Hydari.*] On behalf of the Indian States, we also beg to voice most sincerely our feelings of appreciation and thankfulness to the Secretary of State for the way in which he has shown his special appreciation of the problem of the Indian States and the desire which he has shown in meeting them, and the great courtesy with which he has dealt with our questions, which might have been sometimes inconvenient to him.

*Mr. Zafrulla Khan.*] My Lord Chairman, may we on this side assure the Secretary of State how sincerely we endorse every word that has fallen from Lord Salisbury, Sir Austen Chamberlain and Lord Reading, and how deeply and highly we appreciate the spirit which prompted the Secretary of State to go into the witness box to assist in such a material way the deliberations of the Committee and to assist the Delegates in coming to a closer grip with the questions with which the Committee and the Delegates have to deal at this stage.

*Nawab Sir Liaquat Hayat-Khan.*] My Lord Chairman, may I say one word? Sir Akbar Hydari has already given expression to our feelings on behalf of the States, but I feel it is my duty, on behalf of the Chamber of Princes, to express our own sense of deep gratitude to the Secretary of State for the assistance that we have particularly derived from his going into the witness box. I am very sure in my own mind that their Highnesses of the Chamber of Princes will very greatly appreciate the assistance that we have thus received, and I should be grateful if this goes on record, because I have no doubt that their Highnesses would expect me to give expression to that feeling here.

*Reply by Sir Samuel Hoare.*] My Lord Chairman, I am really overwhelmed with all the kind things that have been said about me, and all I can say is that I am extremely grateful to every Member of the Committee and to every Delegate for having given me the help that they have given me during my examina-

tion. If my examination has so far succeeded it has been greatly due to the general co-operation that I have received both from my British and my Indian colleagues. My Lord Chairman, I am very grateful for every word that has been so kindly said this morning.

*Chairman.*

8401. Secretary of State, I understand that you desire to make a statement?—Yes. The Committee, my Lord Chairman, will remember that a number of questions were asked yesterday afternoon about the meaning of the word “prescribed” and the word “prescription” in paragraphs 139, 141 and 144. There seemed to be an idea in certain quarters of the Committee that what was meant was a continuing control and intervention by the British Parliament through Orders in Council in taxation questions in India. What I am going to say now I think will make it quite clear that that is in no way the intention of the proposals in the White Paper. Our intention put into a single sentence is that either in the Act, or in the Orders in Council immediately following the Act, we prescribe certain conditions for the distribution of revenue, and, having made that prescription, that prescription is final. The actual carrying into effect of the terms set out in the prescription then becomes a more or less automatic affair. Having made that introductory observation, I will describe the position in somewhat greater detail. “Prescribed” within the meaning of Proposal 145 is used in Proposals 139, 141 and 144. These proposals will be dealt with in turn. “Prescribed” is used in Proposal 139 in three places; the first in line 1 is the prescribed percentage of taxes on income (other than corporation tax) which will be assigned (subject to certain conditions) to the Governors’ Provinces. This percentage will be prescribed by Order in Council once and for all. The only reason for not putting the percentage into the Constitution Act itself is that it may be difficult to fix until after the financial enquiry, the results of which may not be known until after the Act is passed, though not yet put into operation. It is intended to make it clear in the Act itself that this percentage having been fixed by Order in Council can-

not be altered by subsequent Order in Council. If alteration were needed it would have to be by an amendment of the constitution Act itself. "Prescribed" is used again in the seventh line of Proposal 139. No definite proposals have yet been formulated by the Government as to the best method of distribution among the Provinces. It is a technical question of some difficulty. One suggestion is made in Lord Eustace Percy's Report, paragraphs 74 and 75, though that particular suggestion would in any case need some modification to fit in with the White Paper scheme. Here again it is intended that once the basis is prescribed by Order in Council it should be unalterable. At the same time, although permanent principles might be laid down in the Order in Council, the working of these principles might necessitate periodical revision of percentages. It is, however, contemplated that this process would be of a more or less, automatic kind and might perhaps be delegated under the Order in Council to some authority in India such as the Auditor-General on the lines suggested in paragraph 75 of Lord Eustace Percy's Report.

"Prescribed" is used again in line 17 of Proposal 139, for the sum which is initially to be retained by the Federal Government out of the Provincial share of income tax. Here again this sum is intended to be fixed by Order in Council once and for all. Proposal 139 gives power to the Governor-General to hold up any reduction in this amount, but this is quite separate from the initial fixing of the sum.

"Prescribed" is used again in line 8 of Proposal 141. The difficulty here is that the States will, under special circumstances, contribute to a surcharge on something which does not exist in the States. It is unlikely that it will be possible to take as the basis of their share any assessment of what the surcharge would yield if it was actually in operation in the States. No final proposal has yet been made as to the best basis to be used. It might, for example, be a contribution on the basis of population, but it is unlikely that this would be a very suitable test. A more suitable suggestion is that the contribution should be in proportion to the revenues of each State and of

British India. Possibly to prevent constant investigation into the revenues of the States, percentages might be fixed which would hold good for a term of years as representing approximately revenue proportion. In such a case once the principle had been laid down power to fix the percentages might again be delegated to, say, the Auditor-General in India. There is no essential reason why the principle to be adopted for the basis should be fixed by Order in Council rather than in the Constitution Act itself. This question might perhaps be discussed in the autumn by the Committee and Delegates with a view to embodying a definite plan in the Act itself.

"Prescribed" is also used in Proposal 144 of the White Paper in connection with the subventions to Governors' Provinces. Here again the Order in Council machinery is suggested, since it will not be possible to fix the amounts and periods of subventions until after the result of the Financial enquiry, of which the result may not be known until after the passing of the Act. It is, however, the intention that, if practicable, these subventions should either be fixed in amount in perpetuity or be terminable at the end of a stated period of years (for instance, in the case of Sind). It is undesirable that these amounts should be open to review and that the Provinces should be in a position to press for an amendment of the Order in Council to give them further amounts. It is difficult, however, to give a final view as to whether the amounts and periods of the subventions can be fixed once and for all without power to alter, until after the report of the Financial enquiry is available.

My Lord Chairman, I think that Members of the Committee will find when they come to read this statement in greater detail, that I have dealt with every case in which the word "prescribed" or "presumption" is mentioned in the White Paper.

Lord Hardinge of Penshurst.

8402. Will that be circulated?—Yes, it will be on the Notes.

Sir Akbar Hydari.

8403. There is one point where you said with regard to "prescribed", in the



second of those series that the alteration would have to be effected by a change in the Constitution Act itself?—Yes.

8404. That will affect the Indian States, and in the change in the Constitution Act, will there be any opportunity for the Indian States to be consulted? The position will be this: That the Indian States in determining their decision will have seen as to what their financial responsibilities are, and they will have the feeling that this has now been determined for all time, but if there can be a change by a change in the Constitution Act, then they will feel a certain amount of uncertainty in this regard?—I think Sir Akbar will see when he reads the statement that we do not run the risk that he has just suggested. Obviously, if a change were subsequently made that altered the basis upon which the States had acceded, the States would have to be consulted and a new bargain would have to be made.

Sir Akbar Hydari.] Thank you.

Major Attlee.

8405. Secretary of State, I want to put to you one or two points, first of all, in regard to India's financial position. Would it not be true to say that though absolutely her position may be difficult, relatively to the position of most countries, she is in an extremely sound financial position?—Certainly.

8406. The second point is this: Her debt is relatively extremely small; it amounts to £909,000,000 outstanding, of which £726,000,000 are secured on assets which are remunerative, leaving outstanding only £183,000,000 not so secured. I have taken these figures from Sir Malcolm Hayley's paper. That is a very exceptional state of affairs?—I should agree.

8407. Thirdly. I understand that of £100,000,000 which was put up by India during the War, she has paid off £84,000,000 of that?—That is so.

8408. Is that not an entirely unique achievement for any State that was in the War?—I should say that it was and I wish that other people would follow India's example.

Marquess of Reading.

8409. May I ask one question on that, only trying to clear it? That £100,000,000 was a gift, was it not?—It was a gift, yes.

8410. It stands in a different category from anything else. My recollection of it was that it was a voluntary act by India as a gift, and certainly no other country has done that?—Yes. I ought to correct my answer in view of what Lord Reading has just said. It was a gift.

Sir Austen Chamberlain.] May I say I was Secretary of State at the time it was made. It was a gift; but when we are mentioning that, I think we ought also to recall the free gifts made by many of the Indian States.

Major Attlee.

8411. Yes. I mentioned that as a debt, because the money was raised on loan and paid off, but you might take that as a free gift which had been paid off during this very difficult post-War period. Now at the present time India is paying a sum of 5.17 millions in reduction of debt. There are a great many countries, including our own, which have suspended debt repayments. The point I want to put to you is this, that Indian financial advisers have followed a course of almost excessive financial probity?—They have certainly followed a course of great financial probity, and I would add, with great success. I think the success is shown by the stability of Indian credit, as compared with the credit of many other tracts of the world that might be compared with India.

8412. There are many financial authorities, are there not, who suggest that in a period of great financial stringency such as the present, it is quite a reasonable proposition to suspend debt repayments. India has not done that?—I have observed arguments to that effect.

8413. And examples?—And examples to that effect.

8414. The point of those questions is that in considering the financial position vis-a-vis reforms, one must have some sense of relativity, both with regard to the general financial position of the world, and also with regard to the times

through which the world is passing ?—Yes, certainly.

8415. The next point I make would be that it would be true to say that the broad features of the Indian situation are largely dependent on world circumstances ?—That is so. I assume Major Attlee has in mind world prices chiefly, when he asks that question.

8416. World prices. Therefore, the financial stringency due to world conditions will apply whether reforms are introduced, or not ?—Yes.

8417. The difference under a reformed Constitution or unreformed Constitution is of comparatively small amount, as has been brought out—the additional cost of the setting up of new reforms under the Constitution ?—Yes.

8418. The next point I ask would be with regard to the Reserve Bank. I do not want to deal with any technicalities, but, given the present world conditions, are not those prerequisites for the establishment of a Reserve Bank which, in effect, become prerequisites for starting reforms, very stringent, and do they not really depend on world causes more than anything that India can do ?—The two are bound up together ; there is no doubt about that. Without going into detail about the Reserve Bank, I would say to Major Attlee that it would, in my view, be a great mistake to start a Reserve Bank in such conditions that would undermine its credit and stability from the beginning. I would prefer to reserve my more detailed views about the Reserve Bank until we have got the Report of the Reserve Bank Committee.

Major Attlee.] I only wanted to ask you on general Constitutional points.

Marquess of Salisbury.

8419. I probably ought to know this, but when does the Secretary of State expect the Report of the Reserve Bank Committee ?—I understand the Committee will probably finish its work this week, and I should hope then, if this Committee so desired it, to circulate the Report at once. Perhaps I might think that point over ; anyhow, to circulate it in plenty of time to have a discussion, say, in the early autumn. I do not think we can look to discussing it next week with our present programme.

Marquess of Salisbury.

8420. Only in the holiday most of us, will not want to read the subject at all ?—Certainly.

Chairman.

8421. When you say circulate, do you include publication ?—I think I would like to think that point over.

Major Attlee.

8422. The Reserve Bank is to be free from political control ?—Yes.

8423. Does that mean it is going to be free, not only from any control by representative bodies, but also free from any Governmental control by a Finance Minister ?—I would suggest to Major Attlee that that is just one of the kind of questions that the Committee are considering now. I could give him an answer, but I prefer to give my answer when the Committee has issued its Report. I can satisfy him today to this extent, to say that it is the view I think of everyone that the Reserve Bank should be free of political control.

8424. The Secretary of State will be aware that there are several banks entirely free of any control by Government that have come in for criticism ?—I think the other kind of Central Bank has come in for much more criticism.

8425. I leave that point. The next point I ask you is one which has been touched on in your reply to-day : On the question of allocation between the Centre and the Provinces, one realises that you have only got one fund for the Centre and the Provinces to draw upon, that is the taxable capacity of the people of India, and the allocation of Revenues between the Centre and the Provinces necessarily depends, to some extent, on the subjects allocated to it. The point I want to ask is this : Has the Secretary of State considered at all the possibility of using subventions from the Centre to the Provinces as a means of insisting on certain standards of administration ?—I have never been able to see myself how a plan of that kind can work in with a Federation, the basis of which is, in the first place, Autonomous Provinces, and, in the second

place, Sovereign States. I think Major Attlee will find, if he investigates further the possibility that he has suggested, he will come up against tremendous opposition, both from the Autonomous Provinces, and from the Indian States. That being so, and the fact being also that I am anxious that Provincial Autonomy should be effective, I have never been able myself to see how a system of grants-in-aid could apply.

8426. May I suggest this to you—that while it is necessary that Provincial Autonomy should be effective, it is also necessary that the Federation should be an effective instrument of Government. In other Federations it has been found that there is a difficulty in carrying out Federal laws through a failure of the Provincial instrument. I think that was so in the United States of America. The concrete suggestion I make is, has it ever been suggested that it might be possible by a grant-in-aid to the Provinces not only to effect some equalisation of costs between them, but also to ensure through inspection certain standards, say, of efficiency in the Police Force; that, ultimately, by this means the States might also realise the advantage of the plan, and, therefore, you might have a position in which by subventions from the Centre the Instrument of Law and Order was kept effective in all parts of the Federation?—I have considered proposals of that kind. Proposals, for instance, affecting Law and Order; proposals affecting social legislation. My difficulty is to see how it will work with Provincial Autonomy. I do not believe it will; but, obviously, let the Committee and the Delegates give their minds to Major Attlee's suggestion. I myself see every kind of practical difficulty in the way of a proposal of that kind. I think the Provinces and the States will both resent the kind of inspection that would be incidental to it. I do not see again where the money is coming from, or how the actual percentage of grants-in-aid is going to be fixed without the most endless trouble with the Provinces and the States. I put these practical difficulties to Major Attlee, and I ask him to think about them. I will think also about his suggestion, but, as at present advised, I do not see any way of

surmounting the difficulties I have just enumerated.

8427. May I suggest three points on that? First of all, where the money is coming from. Agreed that the Police have to be paid; the question as to whether they are paid entirely by the Province or by the Provinces from resources part of which are given wholly to the Provinces, part of which are subventions to the Centre, is merely a matter of book entry, the question of the assignment of certain Revenues to one or the other. The second point I ask is whether it is not possible to make a mistake over Provincial Autonomy, just as I would suggest a mistake was made in local self-government in India, when the idea that Provincial autonomy or local self-government meant an entire relaxation of Central control. I think the result has been in many Provinces of local self-government that you have very large subventions from the Centre and no effective control, such as we have in this country, by audit and inspection over the operations of the local authorities. I merely put that to the Secretary of State as a consideration. Thirdly, with regard to the difficulties of allocation, in this country, as a matter of fact, we have a subvention from the Centre to local Police Forces which is based upon 50 per cent. of the cost of pay and clothing. That is a fairly simple method; and we have many other very different ways of grants-in-aid which have been explored. It is not insuperable?—Let, however, Major Attlee work his plan out in rather further detail; I do not say now, but let him think about it. I think he will find that a proposal of that kind would almost certainly bring the two Legislatures into conflict, namely, the Provincial Legislature, to which would have been transferred the activities described as Law and Order, and the Federal Legislature. I think, in addition to that, if his proposal was to be effective, it would mean taking the case that he has just mentioned, taking the case of Law and Order—

8428. I have not said Law and Order, if I may say so; it was only the specific point of the Police Force itself?—Taking the case of the Police, I think it would mean almost inevitably a Ministry of Law and Order at the Federal Centre, with

its Inspectors, and so on; and I think Major Attlee will find, when we hear the views of a good many of the Indian Delegates, that there will be a very strong opposition to a proposal of that kind. (Mr. Zafrulla Khan.) May I, through you, my Lord Chairman, request Major Attlee, whether now or in a written note, to give us a clearer idea of what exactly he means. Would he mean, for instance, that the Centre should give subventions to such Provinces as are willing to accept them, on the basis of a reciprocal arrangement of the kind he suggests, or would it be compulsory upon each Province to accept a subvention and agree to a certain amount of control. If the former, the arrangement would not be uniform, and his object would not be achieved in some of the Provinces. If the latter, why a subvention at all? Why not say, you want to impose certain restrictions from the Centre in any case? What exactly are the implications of his scheme and where would he bring a subvention from? At present the Provincial Revenues will provide the cost of all these Services. Does he mean you should take away a little from Provincial resources and give it back to the Provinces by means of a subvention, and say, "Because you have this subvention, we shall impose upon you this control"?

Major Attlee.

8429. I will not go into that in detail now. If Mr. Zafrulla Khan would look at the system in vogue in this country with regard to local Police Forces, I think he will see that it is not quite so difficult as he thinks. The next point I would ask would be with regard to payments to deficit areas. Take, for instance, Bengal. Bengal is one of the financially poorest Governments in India?—Yes.

8430. But it is also really a wealthy Province. It is due, is it not, mainly to the fact of the permanent settlement that produces Land Revenue?—A good many people would say it was due to the financial settlement that was made after the Government of India Act as well.

8431. You mean the Meston Settlement?—Yes.

Marquess of Reading.

8432. I do not quite follow. Under the Meston Settlement was not eventually a new arrangement made with Bengal?—My recollection was that there were certainly arrangements made over one or two years, but my impression was that it was changed with Bengal?—(Sir Malcolm Hailey.) Under the Meston Settlement Provinces generally in the aggregate received additional revenues to the extent of about six crores of rupees. As that left the Centre in deficit, contributions were levied from various Provinces, except Bihar and Orissa. After a time it was found that Bengal was hard pressed to meet its expenditure and in the case of Bengal, at an early stage, the contributions were remitted.

8433. That is what I had in mind?—And it was only at a much later stage that they were remitted in the case of the rest of the Provinces in 1927.

Marquess of Reading.] That is what I had in mind, that Bengal's contribution was remitted.

Sir N. N. Sircar.

8434. May I ask if the figures are correct: namely, what was remitted to Bengal was 60 lakhs of rupees?—Fifty-nine.

8435. And what has been taken from Bengal (I need not go into details) is the whole jute export duty, four crores, and the whole of the Income-Tax, a large amount of which was realized in Bengal?—I do not think the Committee would thank me if I were to try and dig up all the arguments about the Meston Settlement here.

Sir Purshotamdas Thakurdas.] May I, apropos of what Sir Nripendra Sircar said just now, inquire if Sir Malcolm Hailey would be able to enlighten the Committee whether Bengal shows the largest amount of Income-Tax as stated by Sir Nripendra Sircar, in view of this, that the Income-Tax is collected in the Bengal circle of the Imperial Bank which includes Bengal proper, the United Provinces, and the Punjab? That is the point about it.

Major C. R. Attlee.

8436. I think that has gone off on a different point. My point was that, broadly speaking, you could say that, apart from the exceptional position of Calcutta and so forth, the Land Revenue system under the Permanent Settlement has meant that the Government of Bengal is able to get a much smaller revenue from the land than other Provinces which are comparable with her in wealth?—Yes; that is undoubtedly one of the causes of the inelasticity of the revenues of Bengal. There are other contributory causes to the present position of Bengal; but the Permanent Settlement is undoubtedly one of the factors which has kept Bengal from raising its revenue, just as it has kept Bihar and Orissa and part of Madras and part of the United Provinces from doing so.

8437. The point I want to put is that, in any subvention, is it just to the other Provinces of India that, because the method of internal distribution of wealth in that Province is one by which the Government is able to get a very small revenue, the amount should be made up by those other Provinces?—I think in suggesting a subvention to Bengal, the Government have had less in view any ideal distribution than the fact that very clearly Bengal is now working to a very low standard of administration. That is illustrated by the fact that it is only able at present to spend two rupees, five annas per head of its population. That compares, for instance, with Bombay, with eight rupees; Madras, with four rupees; the Punjab, with five rupees; and so forth. It was just a mere recognition of the fact that the standard of administration is necessarily being kept very low by available resources and that, owing to exceptional circumstances in Bengal, such as necessarily high expenditure on the police, that has almost inevitably involved a deficit.

Dr. B. R. Ambedkar.

8138. I want to suggest that the standard of administration in Bengal is low because Bengal has not been able to raise sufficient revenue by reason of the Permanent Settlement. It is another way of stating the same thing?—It is one of

the reasons, but we have to accept the fact that the Permanent Settlement is there.

Dr. B. R. Ambedkar.] That is so.

Major C. R. Attlee.

8429. Have you considered in the question of grants to the poorer Provinces the position of the backward tracts? It is more or less an accident, is it not, say, that Chota Nagpur should be tied up with Bihar? Is there any reason why the people of Bihar should have to find the money due to the fact that Chota Nagpur is a backward area or that the people in the valleys of Assam should have to find it for the hill parts of Assam? Should not those backward areas be a charge to some extent on the revenues of India as a whole, rather than on those Provinces which administrative or geographical accident has united to them?—(Sir Samuel Hoare.) I agree that they should. In the case of Assam—perhaps the most conspicuous case—the expenditure on the backward tracts would have to be taken into account when the amount of the assistance to Assam was assessed.

Sir Austen Chamberlain.] Will you ask whether there is a sum specifically attributed to the backward tracts?

Major C. R. Attlee.

8440. That is the point I am going to ask. My point is this: If that were done would those grants be dependant on adequate expenditure by the Government being made in those backward areas?—Yes, certainly.

8441. I have only two more points. One is the question of Provincial borrowings, which is dealt with in Section 149 on page 76 of the White Paper?—Yes.

8442. The Government of a Governor's Province have power to borrow, and so forth. Have you considered at all the Proposal made in the Simon Commission Report for a provincial loan fund, so that the demands for loans should be brought together with the Government of India's requirements and those of the Provinces into some kind of standing Loan Fund?—Yes, and I think it might be a very good plan. I would not like to

tie myself down to the plan as an exclusive plan. One has to remember that the Provinces will be autonomous, but my own view would be that if they are going to raise money cheaply they will have to have some common action of that kind, otherwise they are likely to pay much higher rates of interest for their loans. I think they must study the market, and there must be some sort of relation between the loan policy of one province and another, but it will have to be a voluntary arrangement, as I see it.

8443. There again I would ask you not to make autonomous independence. Provincial autonomy is only within the Federation, and, therefore, the Federation might impose such conditions as would make for the good of the whole. The last point is with regard to the expenditure on Defence. You are aware that the Simon Commission went at considerable length into this question of Defence?—Yes.

8444. And suggested, quite apart from questions of capitation grants, that part of the burden that India bears is due to the fact of its possessing the one exposed land frontier in the British Empire. Have you considered at all the possibility of any part of that burden being taken over as an Imperial burden?—It is a question, of course, that has constantly been discussed between India and Great Britain for many years, and it is one of the questions that will emerge out of the capitation tribunal decision. I would prefer, if Major Attlee would allow me to do so, to wait until the autumn when I should hope to be able to make a fuller statement of the results of the Capitation Tribunal that I can to-day. When Major Attlee reminds me of the Simon Commission recommendations about Defence, I think I would like to add this observation: The basis of the proposals of the Statutory Commission were really to segregate Defence from Indian Government; to make it exclusively an Imperial obligation. I am not now going into the financial reactions of a proposal of that kind. We went very fully into the proposal, and the more we went into it the more we came to the view that administratively it would be very difficult, and, politically, it would be unwise to segregate this great Department from the rest

of Indian Government; to make it a watertight Imperial concern. I can say without breach of confidence that I think the people who criticised the proposal most strongly, and most effectively, were the soldiers themselves. The soldiers themselves took the view that it would be a mistake to isolate Defence from the Railway administration, and from all the other activities in India, and the effect of it would be to make Indians look with even greater suspicion at the Defence Department than they may do at the present time.

8445. I do not want to raise the administrative point but merely the financial point as related to the Constitution?—Yes.

Major Attlee.] Because my point would be that this financial obligation is on India, and yet the foreign policy on which Defence depends is a Reserved subject, and my suggestion would be that as long as that was a Reserved subject India had a claim to some relief on a question of defending itself. Complete autonomy might have the obligation of Defence, and, in the meantime, the obligation should be ours. I do not suggest it is not shared to some extent by the Navy now, but, as regards the rest of the Empire, I suggest that India, considering she does not control the policy, does have a very heavy burden, and the only chance of lightening the burden on the Central Government, and of their getting more money, seems to be in some reduction of the Defence charges.

Sir Austen Chamberlain.] I hope Major Attlee will not forget that this country has a very heavy reserve liability in respect of Defence.

Major Attlee.

8446. Other parts of the Empire pay less?—Major Attlee is raising a very big and a very controversial issue upon which there has been a discussion for generations. What I can tell him, however, is that this was one of the issues referred to the Capitation Tribunal composed, as he will remember, of impartial British and Indian Judges, and I should hope to be able to make an announcement on the subject when we resume our discussions in the autumn.

Major Attlee.] Thank you.

Marquess of Reading.

8447. In the reference you made to the Capitation Tribunal, and to the matters there being considered, was the question raised before them definitely, apart from the one just now mentioned, of Imperial contributions to India, in relation to Defence?—Yes.

8448. I do not want to ask any more if you tell me it was?—Yes, it was one of their Terms of Reference.

Sir Akbar Hydari.

8449. My question relates to the question of Railway accounts. A distinction has been drawn between the purpose for the Railway Depreciation Fund and the appropriation for reduction or avoidance of debt. I understand that the debt originally raised from the market in respect of railways would have disappeared by the provision for the avoidance of debt and be represented by debt from the Railways to the Central Government. The distinction between the purpose of the Railway Depreciation Fund and the appropriation for reduction of debt has been explained and the explanation leads to the following conclusion: That the debt originally raised from the market in respect of railways would, by such an appropriation for the avoidance of debt, have disappeared, and this debt would be represented by a debt from the railways to the Central Government. Looking to Sir Malcolm Hailey's Memorandum on the first page I find that on the receipts side the item is *nil* under "Railways," and on the expenditure side there is an item of about 6.89 crores under "Reduction of debt." I want to know whether this item "Nil" on the Receipt side is after making due provision for depreciation?—(Sir Malcolm Hailey.) The figure I have given on the first page does represent the figure after making due allowance for the reduction of debt. It is a very technical question, but that is a correct answer to that particular point.

8450. On the other hand, the figure which you have put down for reduction of debt on the expenditure side, 6.89,

includes also, I suppose, whatever is required for the payment or reduction of debt on account of capital expenditure in respect of Railways?—What I have given here, on page 1, is your regular Revenue Budget, and the item put down for the reduction of debt is equivalent to Revenue expenditure—that is, general Revenue expenditure. Our Railway Budget is separate, and the mere fact that there are no profits from the Railways means to say that taking all these heads together, namely, what is put apart for depreciation and appropriation towards payment of debt, there has not been a sufficient surplus of income to justify any payments to general Revenues. If Sir Akbar would care, I could, of course, give him a fuller statement which would take account of the various technicalities involved in the Revenue position; they are very technical indeed, and, perhaps, it would be much more satisfactory, because these matters want stating very accurately indeed, if I gave him that written statement in reply to his question.

Sir Akbar Hydari.] I do not want to enter into any technicalities. I simply want to invite your attention to the fact that in the Federal forecast of the Percy Committee, there was an entry of 5 crores under Railways, and what I want to submit to you is whether it is not a fact that if you make on the expenditure side full provision for the reduction or avoidance of debt, then on the receipts side you must at least give credit to general Revenues for the interest on the amount of the debt that is represented by the capital spent on Railways.

Sir Hari Singh Gour.

8451. Perhaps Sir Malcolm Hailey would answer that question by giving Sir Akbar Hydari the history of the quinquennial agreement which the Legislative Assembly entered into with the Railway authorities. That would immediately clear up the whole position?—(Sir Samuel Hoare.) I should think, Sir Akbar, we would like to consider your question and we will send you a detailed answer. It is rather a technical question, and I should rather like to look into it.

the Provinces can go on drawing almost indefinitely upon Central Funds. Obviously, if the Provinces are really going to become autonomous and are going to be responsible in the future for their finances, they cannot depend in the same way on this kind of dole from the Centre in the future.

8492. And it is really not fair to the Centre?—It is fair neither to the Centre, nor is it fair to the Provinces, because under any arrangement of that kind, it cannot be said that they are really responsible for their own affairs.

8493. Exactly; that is why I am suggesting there is all the more reason why you should try to make the Provinces financially autonomous, as soon as possible, and cast the responsibility on the Provinces themselves to carry on their Government without looking always to the Centre?—That is very much the basis of our proposals.

8494. And, of course, in case of any emergency, the Centre, I understand, would have the power as provided in the White Paper, of calling upon the Provinces and the States for contributions?—Yes, there is the surcharge upon the Income Tax.

*Sir Austen Chamberlain.*

8495. There is only one point about which I wish to question you, Secretary of State, in order to clear up some doubt which exists in my mind about paragraphs 139 and 141 of the proposals. Paragraph 139, as I understand, contemplates that Income Tax at a certain rate will be divided in prescribed proportions between the Federation, on the one side, and the Provinces together with such States, if any, as may agree to subject themselves to Income Tax, on the other, to be divided between the two in prescribed proportions?—Yes.

8496. How do you arrive at the rate of Income Tax? Paragraph 141 deals with additional Income Tax, called surcharges on income which may be required to meet Federal necessities. That is so, is it not?—Yes.

8497. Is any addition to Income Tax, beyond the rate contemplated in paragraph 139, to be considered a surcharge?—(Sir *Malcolm Hailey.*) Sir, I do not

think that paragraph 139 proposes to do anything except to lay down a principle of allocation, that is to say, the principle of allocation would be that taking Income Tax as a whole and all its heads, 50 per cent. might go to the Provinces; then it would be necessary to prescribe how that distribution should be made as between the Provinces, and there are various alternative systems.

8498. I do not want to go into that at the moment; your answer is sufficient for my purpose. Under Article 139, it will be decided that Income Tax is to be divided between the Federal Government and the Provinces in certain proportions?—Yes.

8499. If a surcharge is levied under paragraph 141, the whole of the surcharge is reserved to the Federal Government?—Yes, that is so.

8500. How do you decide whether an addition to Income Tax is a surcharge, or not? If you do not prescribe a basic rate, any increase above which is a surcharge, how do you decide whether that increase is, or is not, a surcharge, and is, or is not, to be distributed in the prescribed proportion to the Provinces or, on the other hand to be reserved only to the Central Government?—I think I might best illustrate that from what we have recently done in India. We lay down in our Income Tax Act certain rates of Income Tax, that is to say, using our expression, so many annas in the rupee. For emergency purposes, we have put on that a surcharge of 25 per cent. and it would be a surcharge of that nature to which 141 applies. It is not a general increase of Income Tax rates, but it is a specific surcharge on those rates.

*Earl Peel.*

8501. It is like the charge of the surtax in this country, is it not?—(Sir *Samuel Hoare.*) Sir Austen's question, if I understood it, is this: when does the ordinary Income Tax become the surtax?

*Sir Austen Chamberlain.*

8502. What is the dividing line between ordinary Income Tax and a surcharge? Is it that the one is expressed



in annas in the rupee, and the other is expressed as a percentage of the existing tax?—There is no distinction in amount at all. It will rest with the Federal Legislature, and the Federal Legislature will decide, under paragraph 140. If Sir Austen will look again at 140, I think he will see that it is the framework within which the Legislature would act.

8503. But if it is Income Tax, under 139, no equivalent contribution, I understand, will be paid by any State, except a State which expressly agrees to subject its people to Income Tax?—Yes.

8504. If it is a surcharge under paragraph 141, the State which has not agreed to subject itself to Income Tax will pay an equivalent contribution?—Yes.

8505. Is it to be expected that the Federal Legislature will ever, in those circumstances, increase the ordinary Income Tax, and will it not always for its additional needs have recourse to the surcharge?—I see Sir Austen's point.

Sir *Austen Chamberlain*.] I will make my point a little clearer, perhaps, by referring to a statement made by Sir Akbar Hydari yesterday in which he treated the surcharge as something which would be used only in an emergency.

Sir *Akbar Hydari*.] Is it not this, that if there is a raising of the rate of Income Tax—that is so many annas in the rupee—would it not be that in that case it will be shared by the Provinces alone and, therefore, the urge for raising that rate will come partly from the Provinces and not so much from the necessities of the Federal Government? If it is the necessities of the Federal Government, then the urge will be more in the nature of a surcharge. I do not know whether that is so, or not?

Sir *Manubhai N. Mehta*.] What we understand by the surcharge is, that surcharge will be resorted to only during an emergency.

Sir *Austen Chamberlain*.] I want to know whether the Secretary of State understands by the surcharge what you understand.

Sir *Manubhai N. Mehta*.] In the Report, it is stated that after exhausting all the remedies of tax and economies,

if still the budget is not balanced and an emergency arises, in that case a surcharge will be imposed.

Sir *Austen Chamberlain*.

8506. I should be very glad to have an answer from the Secretary of State?—That is what we mean.

8507. You mean that the surcharge would be resorted to only when all other sources of Federal Revenue had been exhausted?—Yes, I think that is so.

Earl *Peel*.

8508. I think that was the answer you gave me yesterday, Secretary of State, and in which you also said that the Governor-General would be the judge of the emergency. I asked you that particular question as to the relation between those two paragraphs?—Yes.

Chairman.

8509. Perhaps, you would like to look at the transcript and see whether it is desirable that you should make some short statement this afternoon?—Yes.

Marquess of *Lothian*.

8510. Is not that the purpose of paragraph 140?—Yes, that is the purpose of 140; it gives the Governor-General the power of previous sanction.

Lord *Rankeillour*.

8511. Does it not come to this, that in laying the resolution or laying the proposal before the Assembly the Federal Government could call it one thing or the other and they would be bound to the Assembly to reject or to pass it under the form in which it was presented by the Indian Government?—Yes, I think that is so. There will be the three points of view; there will be the point of view of the Federal Government, there will be the point of view of the States, and there also will be the point of view of the Provinces that the Governor-General will have to take into account.

8512. But, as a matter of fact, whatever the Federal Assembly may do in rejecting it or otherwise, the Government will have the option in calling it an increase of the basic rate or calling it a surcharge?—Yes.

8513. And the Assembly will have to reject it, according to what name it is called by?—Yes, I think that is so.

*Sir Austen Chamberlain.*] There will be taxes with a different incidence in the two cases?

*Lord Rankeillour.*] Certainly.

*Sir Austen Chamberlain.*] Secretary of State, that is all I want to ask you on that particular point.

*Marquess of Salisbury.*

8514. Might I just put this: As I understand, the surcharge is only an emergency tax?—Yes.

8515. Besides that, there is the ordinary increase, or there may be an ordinary increase, of the Income Tax?—Yes.

8516. Upon that, there will be no equivalent contribution from the States?—That is so.

8517. But I am compelled to put this question then to the Secretary of State: Is the Committee to understand that the States, who are going to contribute nothing to this ordinary increase of the Income Tax, will yet be entitled to vote the increase of the Income Tax, because they will be Members of the Assembly?

If Lord Salisbury remembers, that question was raised when we discussed the various alternatives proposed, as to whether the representatives of the States should, or should not, take part in British-Indian questions. I expressed the view that I repeat now, that it must be left to a Convention. I do not know what the representatives of the States would say upon a point of this kind. I imagine that under the Convention they probably would not take part in the voting.

*Sir Mirza M. Ismail.*] We agree with that.

*Sir Akbar Hydari.*] Is it not that the whole picture is like this, that in determining the exact point at which the Indian States come in, you will have to take into account the basic rate of Income Tax at that time existing; that after that, whatever increase there is in the Income Tax beyond that rate, whether it is in the form of an increase in the Income Tax or whether it is in the form of a surcharge, the total amount that will have to be brought into the Federal fisc as an emergency contribution, would have

to be determined, and the portion allotted to the States determined. What I say is that in order to make a definite contract with the Indian States, you will have to state exactly what will be the basic rate of Income Tax as then existing.

*Sir Austen Chamberlain.*

8518. Then this, Secretary of State, is what I understood—what Sir Akbar Hydari is putting, that you would fix the basic rate and that anything beyond that basic rate would be a surcharge. I do not want to press you at this moment on a matter of such complication and where we fire questions at you from all round the table, but will you consider the point, and put in a Memorandum on the subject?—Yes, certainly, and I will ask the representatives of the States also to give their mind to the point that Sir Austen has raised. I am not quite sure whether they all take the same view, and, if so, what it is. I should like their view also.

*Mr. M. R. Jayaker.*] May I remind the Secretary of State in this connection that when discussing the question as to how far the State representatives should take part in purely British-India matters, I raised this very specific question. I said, if the surcharge would take the form not of a percentage upon the Income Tax, but an additional Income Tax, and, supposing the Income Tax to be contributed by the Provinces is 4 annas in the rupee, and a Bill was brought for a surcharge for an additional 2 annas in the rupee, and such a Bill was there, and the Prime Minister said that the Government would regard this Bill as the essence of their confidence, would the State representatives take their share in the discussion and the voting on the Bill, I think Sir Akbar Hydari stated, and the other States did not protest against it, that it must be left to the good sense of the State representatives to come in and vote for these additional 2 annas in the rupee, which is to be paid by the British-Indians only.

*Sir Austen Chamberlain.*

8519. If I may say so, that is really an issue which may need to be argued when we know exactly what the Secretary of State proposes, but I hope that the

answer to my question will be given apart from that issue ?—Yes, certainly.

8520. Is there a basic rate of tax beyond which any increase is a surcharge ; the basic rate being divided among the Federal Government and the Provinces in the prescribed proportion ; the whole of the surcharges being attributed to the Federal Government, the basic rate being not paid nor any equivalent to it paid by the States, but the surcharge importing an equivalent contribution by the States. Is there nothing between those two, or is there some form of raising the ordinary rate of Income Tax following out the distribution in paragraph 139, without involving any contribution to the States or by the States. I put that on the record. I do not ask for an answer now ?—I will certainly deal with all those important points in the Memorandum which I will send in.

Earl Peel.] Secretary of State, is not the question quite distinct of an increase in the rate of Income Tax and a surcharge on the Income Tax ? In the case of the surcharge, do you not take the existing amount of Income Tax raised, and then take a percentage upon that amount so raised ? Is not that a surcharge, quite different from the question of raising the actual amount of the rate of the Income Tax ? Of course, I agree, that surcharge might be expressed as an increase of Income Tax, but that is not the basis of the tax at all. It is a definite percentage of the amount raised by the Income Tax at whatever rate that Income Tax stands.

Sir Austen Chamberlain.] But it is also stateable in the same terms as the Income Tax as so many annas in two rupee.

Earl Peel.] It may be stateable, but it is not the origin of it.

Sir Austen Chamberlain.] It is stateable, but it is not stated.

Witness.] The rough answer would be that the Federal Government states when it is a surcharge and when it is not ; but I will deal in detail with the questions that both Lord Peel and Sir Austen Chamberlain have raised.

*Chairman.*

8521. Secretary of State, will you make clear in the note what exactly is meant

by "emergency." Both our experience both of public and private finance associates the word "emergency" very easily with finance ?—It is explained in the statement which Sir Akbar read the other day.

Sir Akbar Hydari.] In the statement I gave yesterday, it ran as follows : "If at any time even during the period of the first ten years the financial position becomes such that the Federal expenditure cannot be met from sources of Revenue permissible to the Federal Government, after all possible economies have been effected and the resources of indirect taxation open to the Federation exhausted, and the return of the Income Tax to the Provinces further suspended, a state of emergency will be held to have come into being when all Federal units will make contributions to the Federal fisc on an equitable and prescribed basis." So the emergency which we consider is, that either within the ten years or later when all the possible economies have been effected and all the sources of indirect taxation open to the Federation have been exhausted and nothing paid to the Provinces out of the Income Tax more than what they were at that time receiving, then still if the Federal Budget is not balanced, except by this recourse to either a raising of the Income Tax or to any other source, we shall come in also and make a proportionate contribution on a prescribed and equitable basis.

*Lord Eustace Percy.*

8522. May I ask the Secretary of State in drawing up his statement to consider this difficulty about the whole percentage system that in the case where short of a serious emergency you want to balance your budget and it is most convenient to do it by income tax, you will always have to put on double the rate of income tax necessary in order to provide the 50 per cent. for the Provinces ?—I have had that point in mind.

8523. It applies equally, of course, if the pressure comes from the Provinces : They want some more income tax ; you have to impose double what the Provinces want ?—I have had that point in mind, and all these various points that have been raised confirm me in the view that the key to the arrangement whatever the arrangements may be must be

the Governor-General's previous sanction.

8524. That does not get over my difficulty?—Yes, I think it does. I think if Lord Eustace will look further into it he will see that with these considerations to be taken into account, and with the pull of the Provinces against the Federation, the Federation wishing to retain the whole tax for itself, the Provinces wishing it to be a normal income tax under which it will get whatever the percentage is, there must be some impartial authority to decide between them.

8525. The Governor-General has no power except to decide either that the Federation will take the whole 100 per cent., or that the Provinces must have 50. He is tied to those two alternatives, and, being so tied, I think the anomalies I have suggested will always arise?—I see. Anyhow I will look into Lord Eustace's point.

*Sir Austen Chamberlain.*

8526. This is a point to which I alluded yesterday. I will put two cases. The first case I put to you is that the Federal Government has sufficient resources, but the provinces generally are short of money, and ask for an additional levy to the income tax in order that they may get more?—Yes.

8527. Under the White Paper there is no means raising, say, one anna for Provincial purposes without raising in those circumstances another anna, which *ex hypothesi* is not needed, for Federal purposes. The other hypothesis is that the Provinces do not need any more income tax, but the Federal Government does, and you then have to raise double the amount (assume that the percentage prescribed is 50-50) you have to raise two annas in order that the Federal Government may get one because, for every one it takes, it must give one to the Provinces, even though they do not want it?—I will take all these points into account. I would ask the members of the Committee to remember that there must be (whatever the arrangements) anomalies. I do not say exactly of the kind contemplated in the White Paper, but anomalies of some kind under any system under which the income tax is shared between the Centre and the Provinces.

*Dr. B. R. Ambedkar.*] May I draw the attention of the Secretary of State and Sir Austen Chamberlain to two points? Sir Austen said there is no provision for the Province to raise any income tax if it wanted it for its own purposes. I wish to draw his attention to Proposal 139, and what appears in the brackets, "A prescribed percentage, not being less than 50 per cent., nor more than 75 per cent. of the net revenues derived from the sources specified in the margin"—(that is the income tax)—"(exclusive of any surcharges imposed by the Provinces)." I take it from that the Provinces will have the right to levy a surcharge on the income tax for their purposes.

*Sir A. P. Patro.*] In addition.

*Dr. B. R. Ambedkar.*

8528. That is Proposal 139?—That is so, and the Committee will see that we alluded to it at the top of page 30 of the Introduction.

8529. May I draw the attention of the Secretary of State to a statement that he made just now, that with regard to the imposition of surcharges for Federal purposes on the income, I think he said the key to the position was the previous sanction of the Governor-General. I would like to draw his attention to the fact that Proposal 141 does not stipulate that the previous sanction of the Governor-General will be required to surcharges for Federal purposes. The previous sanction of the Governor-General refers to revenues assigned to the Provinces, namely, those enumerated in Proposals 138 and 139. Paragraph 141 is not made dependent on the previous consent of the Governor-General?—I think Dr. Ambedkar is quite right, and I must look into my answer in connection with the note I will circulate.

*Sir Akbar Hydari.*] There is also Head 49 in the exclusively Federal heads where definitely it is said: "Imposition and administration of taxes on income other than agricultural income or the income of corporations, but subject to the power of the provinces to impose surcharges" under the exclusively Federal heads.

*Lord Eustace Percy.*] I do not think that exhausts it because all the evidence we have received, and all the evidence

I ever heard in India was violently opposed to Provincial surcharges.

Dr. B. R. Ambedkar.] That was the view of the business people, I am sure.

Lord Eustace Percy.] It was the opinion of every single Indian to whom I had the opportunity of putting questions.

Dr. B. R. Ambedkar.] But they were all business men.

Lord Eustace Percy.] No, indeed, they were not.

Sir Austen Chamberlain.

8530. Does corporation tax come in under either paragraph 139 or 141?—Corporation tax is Federal the whole time. Corporation tax is not shared with the Provinces, and corporation tax is quite distinct from this surtax question.

8531. Paragraphs 139 and 141 have no reference to corporation tax?—No.

8532. I ask that because I think in reply to an earlier question, or in earlier questions corporation tax was treated as a branch of income tax?—I see. I am afraid the term was used rather roughly and inaccurately.

Sir Akbar Hydari.] You have the authority of the Percy Committee's Report, paragraph 61, for treating it like that. It is very difficult to define.

Earl Peel.] Is it not stated in the heading that in paragraph 139 you except taxes on the income of companies?—Yes.

8534. That is the corporation tax?—Yes.

8535. It is stated in so many words?—In the margin.

Sir A. P. Patro.] It is explained in paragraph 57 of the Introduction. That makes it quite clear.

Sir Austen Chamberlain.

8536. Thank you. I think it was a question it was just as well to ask because a tax on companies need not necessarily be a corporation tax. In the case of corporation tax if that is not levied in the States will they make an equivalent contribution?—Yes, after 10 years.

Lord Rankeillour.

8537. May I ask a question arising out of Dr. Ambedkar's. I think it is of some importance. With regard to the

consent of the Governor-General, surely all Federal taxation will be subject to the consent of the Governor-General. It can only be on his initiation, and a resolution such as we have here, that any tax can be considered?—Yes, but I think Lord Rankeillour really is confusing the two positions. There is the general Constitutional position under which money votes originate with the initiative of the Crown. That position, of course, stands. I was contemplating the other position in which the Governor-General intervenes under some special obligation in the Indian Constitution.

8538. I felt sure that was the meaning, but the actual answer given to Dr. Ambedkar would seem to suggest that under paragraph 141 the Federal Legislature would have the power to act without the Governor-General's previous recommendation.

Mr. M. R. Jayaker.] May I ask Lord Rankeillour's attention to Proposal 45, which deals with this question. "A recommendation of the Governor-General will be required for any proposal in either Chamber of the Federal Legislature for the imposition of taxation."

Lord Rankeillour.] Yes, so I thought. I quite agree.

Dr. B. R. Ambedkar.] That relates to the special power of the Governor-General, and that is made so because the taxes contemplated in paragraph 138 are not to go to the Central fisc, but they are to be distributed amongst the Provinces.

Sir Phiroze Sethna.

8539. In regard to the appointment of the financial adviser to the Governor-General is that appointment supposed to be permanent?—It is permanent to this extent, that it will rest with the Governor-General as to how long it goes on.

8540. But since the appointment is required mainly because of the financial difficulties during the transition period, would it not be appropriate to provide that his appointment is fixed for five or 10 years, and that thereafter it is continued if the Minister so desires?—No, I do not think you could possibly do that for this reason: One of the main duties, in fact perhaps the chief duty

of the financial adviser will be to watch finance from the point of view of the Reserved Departments, and you could not therefore put a time limit to an appointment of that kind until you know how long the Reserved Departments are actually going to exist.

8541. Then it is contemplated that the appointment will continue until this is considered a part of the Reserved Department?—I do not quite follow the question.

8542. The Governor-General will continue the appointment so long as these functions are part of the Reserved Department, or so long as he wants to have his advice. It will be left to him alone to decide?—So far as he wants this advice certainly.

8543. Will he have access to the Finance Department?—We certainly contemplate that there should be the closest contact between him and the Finance Department. My own view is that the Finance Department will find the financial adviser of great value to them and of great value to the Federal Government.

*Mr. M. R. Jayaker.*

8544. May I ask a question to clear up this point?—Yes.

8545. Is it optional with the Governor-General to determine the appointment of the financial adviser, although the Reserved Department may continue?—It is so difficult to give an answer to a question about a future that one does not see in sufficiently concrete form. The proposal is this, that as long as the Governor-General thinks that a financial adviser is needed for carrying out his special obligations the appointment will continue.

*Sir Phiroze Sethna.*

8546. At his discretion?—At his discretion.

*Sir Phiroze Sethna.*] His sole discretion.

*(After a short adjournment.)*

*Sir Purshotamdas Thakurdas.*

8552. There is at present in the Military Department or the Military Secretariat in India a Financial Adviser,

*Mr. M. R. Jayaker.*

8547. I wanted to know whether it is the scheme of the White Paper to make the duration of this appointment co-extensive with the duration of the special responsibility and the Reserved Departments, or whether the Governor General is at liberty to terminate it if sufficient confidence he feels?—I should not like to tie it up with a date at all. The proposal is quite definitely this, and nothing more, that as long as the financial adviser is needed there will be a financial adviser.

*Sir Phiroze Sethna.*

8548. As regards the Reserved Departments, what is the machinery for controlling these Reserved Departments, and will this machinery be under the control of the Finance Member?—I am not quite clear what is meant by "machinery".

8549. Who is to be in charge?—Who is to check the expenditure whether it is justified or otherwise; will not there be some superior officer to do so?—There must be due auditing, of course.

8550. Has not the Finance Minister anything to do with it?—The Department would be self-contained—the Department no doubt that is chiefly in Sir Phiroze's mind, namely, the Defence Department.

8551. Yes?—Sir Malcolm tells me he can explain in greater detail how it would work. (*Sir Malcolm Hailey.*) The picture that was in our mind was this, that when the budget was prepared then there would be very close contact between the officials in the Reserved Department responsible for finance and the ordinary general Finance Department, but the general Finance Department under the Finance Minister would not have any day to day control over the financial operations of the Reserved Departments which would be self-contained in the sense that they had their own financial adviser and own financial organisation as, indeed, to a large extent, they have at present.

who is a sort of liaison officer between the Finance Department of the Government of India and the Military Department?—I take it from Sir Purshotamdas that that is the case.

8553. I think Sir Malcolm Hailey would correct me, if it is not so. Under the new Constitution, would there be a similar officer to the Finance Member in the Military Secretariat to do exactly the same work as the Financial Adviser to the Military Department does to-day? —(Sir *Malcolm Hailey*.) That is not what was contemplated. At present the Financial Adviser in the Military Department has a right of reference to the Finance Member in any matter of major importance or any matter in which he thinks that the orders of the Finance Member are required. It is not contemplated that in the future there would be that relation between the Finance Department of Defence and the Finance Minister. As I understand was explained this morning, it is contemplated that the Finance Branch of the Military Department would be self-contained and not under the orders or under the control of the Finance Minister.

8554. Sir Malcolm, the Finance branch of the Military Department may neither be under the orders of the Finance Minister nor under his control, but would you agree that it would be necessary to have somebody to act as a sort of watchdog on the expenditure of the Military Department, or not, without any sort of control or authority, but still to keep the Finance Member in touch with any developments that may occur after the Budget has been passed?—I would agree that full consultation is necessary between the Finance Minister and those responsible for preparing the Military Budget; but it would not be consonant with the arrangements contemplated in the White Paper if an officer were present in the Defence Department on behalf of or in any way under the control of the Finance Minister. My answer only went as far as that.

8555. Inasmuch as because of the special responsibility of the Governor-General, you said that it was necessary that the Financial Adviser to the Governor-General should have access to and be in full knowledge of what happens in the Finance Department of the Government of India from day to day, do you not think that the representative of the Finance Minister who has got to look after the expenditure and face the Legislature regarding new taxation, at

least is necessary?—No, because the interest of the Finance Minister in the details and the expenditure in the Finance Department lies only so far in making certain that the Budget is not exceeded. So long as the Defence Budget is kept within the appropriation granted to it, the interest of the Finance Minister really ceases.

8556. Do you not think that the consultation and the general touch of the Finance Minister would suffer very badly, if he is not to know something about what is happening in the Finance Department once, twice or thrice a year? —He, after all, is not called upon to defend in the Legislature the detailed expenditure of the Defence Department.

8557. He may not be, but, I suppose, you would agree that it would be very necessary that he, out of conviction, could defend that part of the Government of India's expenditure and simply say some things which can only be said superficially if he comes within knowledge of the facts once or twice a year? —Yes, it would be of the greatest benefit, if he felt it possible to defend the expenditure and the details of expenditure under the head of Defence; but, for that purpose, it is not necessary that he should have an officer on his behalf who watches the day to day financial operations of the Defence Department.

8558. Can that do any harm, Sir Malcolm?—I can quite conceive that as a working arrangement, it might be very useful. I was really speaking of it from the Constitutional point of view, or as a statutory arrangement.

8559. Let us see what you think about it as a measure of practical usefulness and perhaps one which would disturb the Indian mentality least, if you retain exactly the same procedure as at present, except that the Finance Member's veto is not operative. Could you tell me that it can do any harm, or that it can lead to any clash between the Military and the Finance Member's Department?—In effect, if the Finance Minister had no control. In other words to use that expression that his veto was not operative. If the Finance Minister had no control over the financial operations within the Defence Department, then it would be some arrangement such as I myself have

seen describing. The difference between us really only lies in the question whether the Finance Minister will have any control over the detailed financial operations of the Defence Department. There might be the fullest consultation and the fullest means of gaining information on both sides, from day to day, but the question is only one of control.

8560. I will put it from the other point of view: Even in order to enable the Governor-General effectively to decide questions of difference of opinion between the Finance Department and the Military Department, it is necessary that there should be somebody who would bring those things to the knowledge of the Governor-General and I should have thought in fairness to the Governor-General in order to enable him to deal fairly with a question of difference, it may be necessary to have the Finance Department in full possession of the facts, so that he may put up his point of view to the Governor-General effectively and fully?—I dare say, when the Constitution develops, some working arrangement might very easily be arrived at under which full information would reach the Governor-General. At the moment, I was only on the point of safeguarding the position, that as the Defence Department is reserved, its financial operations would not be under the control of the Finance Minister. Subject to that, I would agree that it would be of the greatest benefit if some arrangement could be arrived at for the fullest liaison on both sides.

8561. May I put now this view in one question: That if the present policy of having a Finance Department representative in the Military Secretariat is retained with this exception, that there need not be a veto of the Finance Department member and expenditure is incurred as at present, but that it is necessary that an officer of the Finance Department should be in daily touch with what is going on on the Military side in the Military Secretariat in the Finance line, would you agree with that?—I would rather leave that to be worked out when the Constitution is in working order. I can see that unless the position is worked out a little carefully, there might arise a good deal of friction on the subject.

8562. Do you not think that that friction is likely to be best avoided if the position was cleared up from the start rather than count upon the position developing with the goodwill of the Military Department, whoever may be there?—I, personally, do not think I could commit myself to any arrangement of that kind in advance. I do not think it would be safe.

8563. I do not know whether the Secretary of State would like to add anything?—(Sir Samuel Hoare.) Sir Malcolm has very accurately expressed my own view as well. I agree with everything that he has said as to the advantage both to the Finance Department and to the Defence Department in having a very close liaison. I am, however, inclined to the view that you will get a closer liaison and you will get better relations in the long run if you do leave it to people's common sense. I am afraid myself that any attempt to give it statutory form at the commencement of the Constitution would probably create an impression—I dare say, a wrong impression—but would, none the less, create an impression that there was a division of responsibility. My own view is that if that impression was created, it really would make friction, rather than co-operation. Whilst, therefore, I do not at all wish to dissent from the view that Sir Purshotamdas has expressed as to the need for close co-operation, I could not go so far as he seems to go in saying that one can dot the i's and cross the t's of the method of that co-operation in the Constitution Act.

Sir Purshotamdas Thakurdas.] My Lord Chairman, I will leave this point with this expression of opinion on my behalf, that this is the minimum which the public in India would expect, as far as the Reserved Departments are concerned, and I will simply leave it at that.

Sir Akbar Hydari.

8564. What would be the position of the Auditor-General with regard to this Defence, and how far would his audit reports, and so forth, be available to the Finance Minister? To a certain extent, could not these provide something of the liaison which is required, although it would be *ex post facto*, but still it



would indicate how far the budgetary provisions were being really and truly carried out in the actual expenditure?—(Sir *Malcolm Hailey*.) I think we might contemplate that the Auditor-General would occupy in regard to the Reserved Departments the same position as with regard to other Departments, but in India, of course, his audit as Sir Akbar has said, is *ex post facto*. It is, in other words, a kind of *post mortem* operation. The point on which Sir Purshotamdas was insisting was that there should be some day to day watching of the operations of the Finance Department, the appropriation report and the Auditor-General's report would bring any matters occurring in the Reserved Departments to the notice of the public and the Legislature, but some time after. There would be no question of pre-audit or questioning of sanctions, or the like.

Sir *Purshotamdas Thakurdas*.] May I say this, my Lord Chairman, that Sir Akbar Hydari's suggestion regarding audit serving the same purpose is a little irrelevant. What is wanted is day to day touch, as it goes on, and not a *post mortem* over the accounts, a year or six months later.

Sir *Akbar Hydari*.] What I had in mind was that the audit might be so arranged that it might not be once in six months, but the results might be communicated from month to month.

Sir *Purshotamdas Thakurdas*.

8565. I am sure Sir Akbar Hydari appreciates exactly the significance of that I am asking for, and I think I may pass on to the next one. Sir Samuel, regarding the tribunal as to whose report you said this morning you would communicate something to the Committee some time in October, may I inquire if it is your intention to publish the Report simultaneously then to the public?—(Sir *Samuel Hoare*.) I would prefer not to make a final answer to Sir Purshotamdas to-day. There is no secret about the position. The position is this: The Tribunal has made its Report and at present a number of Departments here are concerned in the Report, and so also is the Government of India concerned in the Report. Until I have got the final

communications from those various Departments, I cannot make a statement as to when the Report will be published, or, indeed as to whether it will be published. What I can say is that I feel sure I shall be in a position at the end of the Summer Recess to make a statement on both those points.

8566. A statement which will go on the record here, I take it, and will, therefore, be available to the public?—Yes.

8567. In a previous occasion I have referred to the fact that Land Revenue in India being based for the settlement made between 1920 and 1928 upon the higher prices of commodities, may require or may justify the concessions in Land Revenue. Towards the end of my reference in that connection, I said this: "I do not know whether Sir Malcolm Hailey with his vast experience will differ from me, but I want to put it forward, when we are considering the four leading features which have been considered by the Secretary of State." I wonder whether Sir Malcolm could tell me whether he agrees generally with what I said there?—(Sir *Malcolm Hailey*.) The consideration that Sir Purshotamdas Thakurdas has put forward applies, of course, to Provinces in which there is not a permanent settlement, because in those Provinces the relation of Land Revenue to the rentals or to the valuation of the produce on which Land Revenue is assessed in other Provinces has really ceased to exist. In the Provinces in which there is what is called a temporary settlement, there are settlements some of which are thirty, and thirty-five years old; they were, therefore, effected at a range of prices which, very roughly, may be taken as approximately near the prices which have resulted from the Depression, but there are many settlements which have been affected at a later date and some, in particular, which have been concluded in the period between the War and 1928-29. There has undoubtedly been a great difficulty in the payment of Land Revenue, owing to the fall in prices, and that has been reflected in the fact that certain Provinces have had to make heavy remissions of Land Revenue. In the United Provinces the remission of Land Revenue

has amounted annually to over a crore of rupees. There have been heavy remissions in other Provinces also. I only give that as typical. Now the expectation that the Provinces would be able for the most part to balance their Budgets this year, is based on the reductions of Land Revenue, to which I have referred, and takes account of them. It is, I think, however, clear that if a period of low prices continues, some of the settlements, concluded in the years of high prices, will have to be revised; that is to say, we shall either have to have temporary *ad hoc* reductions of Land Revenue, or actually revise the settlements, and to that extent, the Finances of the Provinces will be affected in the future. I might say that I think that is one of the factors which will have to be taken into account by the Inquiry of which the Secretary of State spoke. The Inquiry would only, of course, deal with the results of this process, because the policy must remain in the hands of the Local Government, but it would deal with the results of this process on the finances of the Provinces in the future.

8568. Secretary of State, I now wish to refer you to a statement which you have made that there is still opportunity for economies to be carried out in certain fields of administration in India. May I ask if you would expand on this, and tell us in which Departments, either Transferred or Reserved, you expect this, and approximately, if you will kindly give us an idea of the extent that you expect?—(Sir Samuel Hoare.) I would prefer not to give details, and I would prefer not to state, even roughly, what I think the extent of those economies might be. As soon as I start giving details, I then do really involve myself in the Budget responsibilities of the Provinces, and of the Centre. As soon as I deal with the extent of the field of the economies, then I may be restricting the field of economy, although I do not intend to do so. Sir Purshotamdas must take it from me that I did not make this statement without having certain ideas in my mind. I do not say that the field of economy, after all the economies that have been made both by the Centre and by the Provinces, is an unlimited one, but I do believe, from the information at my disposal, that there

is still an opportunity of further economy and particularly in the Provinces.

Sir *Abdur Rahim*.

8569. May I ask one question, is this part of the reduction of salaries for future entrants to the Services?—Yes. I have got other directions in my mind as well. What I am very anxious to do is to impress upon the Provinces, even after the great sacrifices they have made, that they must once again look into their Budgets to see whether there is not an opportunity of further economy. I do not want the Provinces to go on with the impression that the time for making these efforts is past, and that they are going to set their finances right by getting grants from the Federal Centre.

Sir *Purshotamdas Thakurdas*.

8570. I appreciate the reason advanced by the Secretary of State as to why he will not go into the details of this, but I wish to ask this question from this particular point of view, namely, is there any room for further economy in the nation-building Departments in the Provinces, such as Medical, Sanitation, Education, and such social Services about which I see even in the Simon Commission Report they say that the proportion of amounts spent in the Provinces on these social Services is much too small as compared with the amounts spent on Departments which do not bring it in relief to the taxpayer, such as the Military Departments of the Government of India, for instance?—I would not like to give an answer to a question of that kind. I think it is essentially a question that must be answered Province by Province. I am fully aware of the fact that there is a great need for expenditure upon social Services in India; at the same time, I would not like to give an answer that implied that even accepting that assumption, there was not still an opportunity for saving unnecessary expenditure upon this or that detail.

8571. I will leave it at that, and I will not ask any more questions about it. Now, regarding the cut in the pay and the partial restoration of it till now, I understood you to say yesterday in reply to a question from Sir Reginald Craddock that you—please correct me if

I am wrong—but the impression I got as I heard you yesterday was that you looked upon that as a first charge upon either any surplus or on any further margin that may be realised in the Provincial Budgets. I wish to ask, in the first instance, whether you can enlighten me regarding any other country which since 1929 has made a cut in the pay of its Services, and has restored a part of it till now?—I do not know whether there is a case, or whether there is not; I have had to take the Indian case upon its own merits, and there I have felt that in the special conditions of Service in India, these cuts must be regarded as emergency cuts. Indeed, when I introduced the two Bills in the House of Commons, I stated that fact, and said that they would be removed at the earliest opportunity. I stand by that statement, particularly for this reason: I have the very strong view that if Provincial Autonomy is to start in a satisfactory atmosphere, we must avoid any feeling of resentment and discontent amongst the Services upon whose backs a great deal of the burden will fall in starting the initial stages of the new Reforms. On that account, I think that it would be much more satisfactory that the cuts should be restored, and that there should be no ground for any feeling of resentment, when Provincial Autonomy is actually started. That is my position. I do not say that it is a law of the Medes and Persians that this or that item in the Budget has to be dealt with in a particular way before Constitutional changes take place, but I do say that by far the best and far the wisest course in the interests of the Provinces themselves would be to restore the cuts before the change is made.

8572. I agree with the Secretary of State fully that a contented Service is the greatest asset to a State, but where there has to be emergency taxation and countervailing emergency cuts, should they not both have simultaneous consideration for relief, or should one have a preference over the other, and further, should it be necessary to raise taxation in order to introduce the Reforms, would it not be said that the interest of the taxpayer has been held to be secondary by a far greater degree over the interests of the Services?—It is

always difficult in the matter of the restoration of cuts to know where to begin. We shall have, no doubt, just the same kind of problem here, but there never has been any doubt upon this question in India or here, so far as the Services are concerned. We have always stated that we do regard this as the first charge to be removed.

8573. Would I be correct in inferring from what you have said, that it would be regarded as such, even though taxation may have to be increased in India from the present level?—I hope that is not going to be the case. I am emboldened to say that from the fact that I believe it will be possible to restore these cuts, and that it will be possible to start Provincial Autonomy.

8574. Without additional taxation?—Yes, that is my hope.

*Dr. B. R. Ambedkar.*

8575. My Lord Chairman, may I just intervene for a moment for the purpose of asking for information, not for raising any controversy. The Committee knows that there is a certain amount of difference of opinion on the expression "existing and accruing rights." The Civil Service takes one view; the Law Officers of the Crown take another view, and I believe this Committee will have to give some sort of opinion upon that subject before the clause is drafted. I find exactly the same expression "existing and accruing rights" used in the South African Constitution of 1909, and I wonder whether it would not be possible for your Lordship and the Secretary of State to obtain the Memorandum from the Dominions Office to find out exactly how that clause has been acted upon, and interpreted by the South African Government?—I will certainly look into that suggestion. In any case, it is a question which we must deal with when we come to the Services. It is not quite the same question though that Sir Purshotamdas put to us.

8576. No; that is why I said I did not want to raise any controversy. I am simply asking for information as to whether that would not be possible as a sort of comparative view?—Yes.

*Sir Purshotamdas Thakurdas.*

8577. Lord Hardinge yesterday referred to a statement in which I said that the present conditions are so bad that the finances of the Government, both Central and Provincial in India, are in a comparatively critical condition. The Secretary of State said in reply when Lord Hardinge said he was inclined, in general, to agree with this, that he would not go so far as to agree to this, and that he pointed to the fact that the credit of India stood high at the moment. I wish to put it to the Secretary of State this way: In order that the credit of India should continue to be at the point at which it is at the moment, either world trade must improve very soon or gold exports from India must continue. Would the Secretary of State agree with that?—Yes, I think I should.

8578. Therefore, under any one of these two contingencies we should have good luck, but as we are framing this constitution, as far as the finances of it are concerned, on a comparatively conservative basis and from a conservative point of view, may I ask whether, should either of these not prevail, it would not be necessary to economise to the greatest extent in every possible avenue of expenditure incurred, Federation or no Federation, reforms or no reforms?—I think it might be, and it was because I had that fear in my mind—a very remote fear, but at the same time a fear one must take into account—that I used the words I did use about the necessity of our readjusting ourselves to a new position if things did not go better.

8579. In that case, a suggestion of the nature, that Lord Hardinge put up, namely, putting up salt duty or any other taxation, would be a matter which would be, comparatively speaking, impossible of any serious consideration?—It is so difficult to say what could or could not be considered when one does not know the situation, but if Sir Purshotamdas means that if the state of the world gets worse taxation will become more difficult, I agree with him.

8580. No, Sir. I said this: If world trade does not improve so much or as well as you are counting upon, or the

gold export of India does not continue for the period which will intervene between the world trade improvement and now (I am not thinking of when conditions get worse) then it would be a most difficult proposition. I am thinking of a slower recovery than the one you expect?—Yes, I would certainly agree (except for the question of the match tax that we have discussed in the past, as you know) that, in conditions of that kind, it will be more and more difficult to impose new or additional taxation.

8581. In fact, it would come to this; Secretary of State, that no country since 1929 that I know of has thought of increasing taxation. The complaint and the cry all round have been for decreasing taxation and until world trade comes back to something that may be regarded as normal, or until the grower of raw material in India gets a much higher price for his commodities than he has been getting during the last two or three years, the increase of taxation in India may be said to be almost out of the question?—I am afraid taxation here has gone up substantially since 1928-29. I do not suggest that that is an example that other countries should everywhere follow, but it shows the great danger of my giving a general answer to a question of that kind.

8582. I sympathise with any country that has its taxation raised, but the point is that the taxable capacity of the people of India as compared with the people here is quite a different proposition, and whilst I sympathise with you, I submit there is no parallel between these two conditions?—I would rather not get into general answers to questions of that kind.

8583. No; but you would agree that unless world trade improves, the question of any increased taxation would not be a serious proposition?—I said just now, and I think I had better stick to the answer I gave, that I think the problem of increased taxation would become more and more difficult.

8584. I want to ask one or two general questions regarding the military part. Before I pass on, when the Secretary of State mentioned about the match tax, about which he said I knew; we discussed the possibilities of that tax last year;

but I am sure he will agree that it does not in the present circumstances in any way connote my approval, or in fact it does not connote any approval on my part, of additional taxation for the reasons which I have just now discussed with you?—I fully accept Sir Purshotamdas's view. I only mentioned it for this reason. I was expressing neither support for it nor opposition to it, but it was one of the possible taxes that was considered at the conference.

8585. So was tobacco tax considered. To that extent we did discuss it. The military expenditure of India to-day is about 46½ crores; it may be correctly stated as 46½ crores, plus the loss on strategic railways and the frontier watch and ward expenditure which is not included in these two items, bringing the whole thing up to something like 52 crores?—Yes; but Sir Purshotamdas will no doubt keep in mind the fact that so far as I know the upkeep of strategic railways and the administration of a frontier are nowhere charged to Defence expenditure in any other country in the world. For instance, if he will take the returns that are annually sent in to the League of Nations of the defence expenditure of all the great countries of the world I do not think he will find that items of that kind are ever included.

8586. Were they not included before a certain period in a Government of India budget? I ask for information; I am not quite sure?—I am not sure about the Government of India budget. My point was rather this: I gathered from his questions that he was suggesting these items ought to be added to the defence expenditure in India. I could not agree with that suggestion for the reason that I have just stated. So far as I know, they are included in no other military budget in the world.

8587. That is why I asked whether in the Government of India budget they were included or not. My impression is (but I am speaking from a very hazy memory) that for a certain period back they were included in the Government of India budget?—I do not know about that. We will look into that.

8588. May I refer to the Incheape Committee Report of 1922-23, where under the Head of Defence, on page 43,

I will read to you one sentence at the end: The actual expenditure on the Royal Air Force in 1913-14 was 41,000 rupees; in 1921-22 it was Rs. 1,34,29,000, in 1922-23 it was a crore and 41 lakhs. This is the sentence with which the Incheape Committee end that paragraph: "Since the potentialities of the Air Force in India are only now being proved, and there is a possibility that the extended use of the Air Force might result in economies in expenditure on ground troops, we make no recommendations." In fact, from the year 1921-22 (that is the latest figure), the Royal Air Force was the one item where the Incheape Committee left even an increase of eight lakhs without any criticism. I wish to ask whether the Government of India have examined this possibility of the extended use of the Air Force resulting in economies in expenditure on ground troops at all now?—I am glad Sir Purshotamdas has raised a question in which I personally have been very much interested for a great many years. I have always made the argument that in certain conditions the use of the Air Force was an economy. Certainly that argument has been borne out in our experience in India. It has been possible to reduce a number of units in India and in particular it has been possible to reduce the number of units upon the Frontier owing to the substitution of the Air Force. I have not got the figures with me to-day, but there have been quite a number of units reduced, and without tying myself down to a precise statement that this or that unit reduction was directly due to the Air Force, I can state generally that, without the substitution of the Air Force in the Frontier districts, the reductions that have taken place in Indian defence would not have been possible upon the scale upon which they have been possible.

8589. Would it be too much if I suggested that we may have a note on this, at your convenience, circulated to the Committee?—Yes, I will see what we can do. The difficulty, as I say, is definitely to state that this or that particular reduction is due to the increase in the Air Force. What I think I could do is, I think I could give the Committee a note on the reductions that have taken place over a term of years in the

Army in India and also a note stating the increase in the Air Force and members of the Committee and the Delegates must then draw their own conclusions from those figures.

Mr. M. B. Jayaker.

8590. Is the Secretary of State's answer dependent on the assumption that bombing from the air continues?—Yes, it is.

Sir Abdur Rahim.

8591. May I make another suggestion, Secretary of State, that, if you could give us figures as regards the number of raids from the Frontier tribes during the last 10 or 15 years, in the Assembly a Committee had to go into that and from the figures it appeared that there has been a considerable decline owing to the new policy that has been adopted with regard to the Frontier tribes. I think it is called peaceful penetration and also a civilising policy. I think the figures might be available and I think they might be of some use to us in considering the needs of military expenditure in connection with the Frontier?—I should be rather sorry if this Committee went into details of that kind. If you come to Frontier raids, it is very difficult to say what is a raid and what is not, and whether a decline in the number of raids in a particular area is due to the building of roads, or whether it is due to the use of air power, or whether it is due to this, that, or the other cause. I would have thought that information of that kind was really not necessary to us here who are considering the bigger constitutional issues.

Lieut.-Colonel Sir H. Gidney.

8592. Is it not a fact that there has been a considerable reduction in the Military expenditure at Aden since the Air Force was increased there?—That is so, but, with all my great affection for the Air Force, I must not be drawn here into a controversy with the other Military Authorities, and, on that account I have said I am ready to give the numbers of units both in the Army and in the Air Force, and to let every Member draw his own conclusions from those numbers.

Sir Purshotamdas Thakurdas.

8593. May I refer you to the same Committee report, page 58, where, at the end they have this paragraph which, with your permission, my Lord, I propose to read: "We do not, however, consider that the Government of India should be satisfied with a Military budget of Rs. 57 crores, and we recommend that a close watch be kept on the details of Military expenditure with the object of bringing about a progressive reduction in the future. Should a further fall in prices take place, we consider that it may be possible, after a few years, to reduce the Military budget to a sum not exceeding Rs. 50 crores, although the Commander-in-Chief does not subscribe to this opinion. Even this is more, in our opinion, than the taxpayer in India should be called upon to pay, and, though revenue may increase, through a revival of trade, there would, we think, still be no justification for not keeping a strict eye on Military expenditure with a view to its further reduction." The fall in prices the Committee had in mind was not anything like the fall in prices which has actually taken place between 1922 and 1931, and I wish to put it to the Secretary of State whether he does not think that even on the conservative opinion of the Incheape Committee in this connection a much lower Military expenditure to-day is called for than the 46½ crores, not to add on the other two items which were passed last March?—Sir Purshotamdas is really asking a great deal of the Military Authorities in India. Here the Committee, of which I think he is a distinguished Member—

8504. I was a Member?—held out as their ideal a Military budget of 50 crores. Our budget to-day in spite of all the difficulties with which we have been faced is 46 crores. I think that is a very great achievement, and, if Members of the Committee and the Delegates will look at the percentage of the reduction, namely, from 57 to 46 crores, I am sure, as I said the other day, there is no other country in the world that can point to so great a percentage reduction as that. Further than that, whilst I am anxious to keep down the expenditure to the lowest legitimate minimum we have to remember this, that

the needs of Indian Defence are absolute and not relative, and that the worst possible policy in the world would be to have the appearance of a system of defence in India upon which, presumably, you would be spending quite a lot of money, and that that system of Defence would be ineffective. I should have thought that this great reduction from £7 to 46 crores in this very short space of time points to the great care with which both the Military and the Civil Authorities have approached this question, and illustrates their determination to make every conceivable economy that they legitimately can.

8595. I am afraid Sir Samuel Hoare has rather overlooked the very important point which I included in my question, namely, the fall in prices. I was a member of that Committee. Unfortunately Lord Incheape is no more. If he were alive (he was Chairman of the Committee) I could have produced from him a letter saying that the fall in prices to which he refers there was no more than 10 or 15 points. No one then foresaw that there would be a fall in prices to the extent of over 100, and when there has been a fall in prices of over 33 per cent. of the basis on which this paragraph is written, the result is not only one upon which one cannot congratulate the Military Authorities, or anyone else in India, but it is one which leaves the public in India with a very sore grievance?—I believe if you and your Committee had been told in the year in which you were sitting that the Military Budget could be got down to 46 crores in 1933-34, even with all the fall in prices to which we have been subjected, you would have thrown your hats up in the air, and would have been delighted.

8596. It is not a matter of such great delight. I will refer Sir Samuel to the papers of the Retrenchment Committee which are in two boxes in the Home Department of the Government of India, they are not accessible to me or any non-official but they would be accessible to him. In the first draft he will find the figure mentioned was that over which he thinks I would have thrown my hat in the air. Nothing of the sort. It was subsequently altered and another figure added. You indicated

both in Sir Malcolm Hailey's Memorandum, and in your speech, the idea, of appointing a Committee in order to consider in detail the allocation between the Provinces and the Centre of Revenue and expenditure. I take it that Committee will be appointed by you?—I think so, but I am open to suggestions about it. That is my present view.

8597. I have no suggestion to make except to ask whether you would attach as much importance to representation from Provinces or representation from men who are interested neither in Provinces nor in the Central Government at the moment, and still who are not back numbers in the sense of being retired, and not being in touch with affairs in India. It must be somebody who can weigh the scales evenly between the Centre and the Provinces, and who will command the confidence of the people?—I think certainly, without being precise as to the constitution of the Committee, it should be an impartial body and an impartial body to which the Provinces could make their representations. I think also it should be quite a small body, and I should hope it would be a body which, having most of the data readily available, should not take a very long time.

8598. I only wanted to indicate one or two considerations which struck me as being very important to be borne in mind in connection with this Committee. I agree with the other requirements mentioned by the Secretary of State. The Reserve Bank Committee Report and the Railway Board Report are not available for us to-day, therefore I shall not ask any questions about them. There is one question I should like to ask, because it is a question which is constitutional and not purely financial. You have said that the Reserve Bank should be free from political influence. I wish to ask whether you remember that in the Financial Safeguards Committee Report of the Third Round Table Conference, paragraph 4, page 37, the actual word used is "that efforts should be made to create, on sure foundations and free from any political influence"—the word "any" there does not mean merely political influence, and the significance of the word "any" is political influence

both in India and in England. Would you agree with that?—Yes.

8599. I particularly stress this because I find there is a tendency rather to overlook the word “any” and only to think of political influence in India. Would you consider that something beyond that was intended and indicated in the draft Report?—We intended in the Committee, and I contemplate now, that the Reserve Bank should be free, so far as we can make it, of any political influence.

8600. On both sides of the seas?—On both sides of the seas.

Sir *Purshotamdas Thakurdas*.] I had a few questions to ask regarding the debt position of India, but I find Major Attlee has dealt with that question so admirably that I will not take up any time of the Committee in dealing with them.

Mr. M. R. Jayaker.

8601. The present position about the Army estimates is that they are dealt with by the Governor General in Council which means he has the benefit of consultation with three Indian Members?—Yes.

8602. And according to the proposals made in the White Paper, I find no constitutional position which gives such an opportunity of consulting Indian opinion in the new Constitution on Army estimates excepting that you refer to the Instrument of Instructions, pointing out the desirability of the two branches of the Government working in harmony?—Yes.

8603. But in that connection, having regard to the great importance of the question, how does the proposal appeal to you which Sir Tej Bahadur Sapru and myself made in our Memorandum which we submitted for your consideration at the end of the Third Round Table Conference of appointing as an Army Member a non-official Indian, the Viceroy to have the widest choice in that connection, and the Army Member to be solely responsible to the Viceroy, and the Viceroy's view in no way to be affected, nor his freedom to be in any way minimised? How does that proposal appeal to you?—I have always felt that it is better to leave the choice entirely free.

I know the arguments that can be used upon both sides but I came to the view, and so also did a good many other Members at the last Round Table Conference come to the same view, that we should leave the choice of the Viceroy completely free as to his own advisers and his own staff.

8604. Have you considered this possibility that in the new Legislature there will be a number of men—I am not saying Indians because there may be non-Indians too, especially those who come from the States—who will have considerable experience of the management of the Army; therefore if you had the provision which we had in mind you would be providing the Viceroy with an expert person who has considerable experience of managing the Army, and who will serve as a nexus between the Legislature and this Reserved Department of the Army?—That may be so, but at the same time I do feel that it is much the best to leave the Viceroy with a completely free hand.

8605. Would you go to the extent of stating in the Instrument of Instructions a predilection for selecting a non-official?—No; I do not think I should. I have argued this question at some length in the past, and I have not changed my view, namely, that in a responsibility of this kind covering Defence it is essential that the man who is responsible should have a free and unrestricted choice.

8606. I was asking this question, because your answer No. 6634 which you gave some days ago expressed sentiments with which we Indians completely agree, namely, that you are looking forward to an arrangement when a greater and greater attempt will be made to draw the Legislature into a position of good will and understanding with regard to the Army Department. Do you remember those answers which you gave?—Yes.

8607. Do not you think that if that is the Indian view it is more likely to be achieved, and more speedily to be achieved, if you had any such arrangement as we proposed to you?—I think myself that arrangements of that kind must grow up as a matter of usage, and that to try and make them explicit in an Act of Parliament would be unwise, and might very well lead to friction



rather than co-operation. When I give this answer to Mr. Jayaker upon this particular point it does not mean that I am in any way modifying the answers that I gave the other day based upon my desire to see the closest co-operation possible between the two sides of Government. I really believe myself that you will get better co-operation if you leave the Viceroy's choice free than if you attempted to restrict it in some way that might very well create, rightly or wrongly, suspicions here, or suspicions in certain quarters, and would tie the Viceroy's hands.

8608. I will not press the question further. But now may I ask your attention to a few questions connected with the Reserve Bank, and let me say if you think those questions arise out of details which had better be considered after a Report is presented, you need not answer them. I am asking them because I am not sure at what stage the Report will come before this Committee, or whether I shall be here on that occasion. What I want to ask your attention to is page 17 of the Introduction, paragraph 32. That paragraph says that the "Reserve Bank, free from political influence, will have been set up by Indian legislation, and be already successfully operating". Now what are the tests by which you will judge that the Reserve Bank will be successfully operating? I am asking this question because in the case of an ordinary bank the test would ordinarily be the balance sheets, the deposits and reserves, and so on. *Ex hypothesi*, these cannot be the test with regard to a Reserve Bank, so what will be the test by which you will judge that the Reserve Bank which you have in view in paragraph 32 is already successfully operating?—I would prefer to deal with these questions as a whole. If Mr. Jayaker would agree, I think that would be the best course. If Mr. Jayaker is not here when we discuss these questions, I would send him a full answer upon a point of that kind.

Mr. M. R. Jayaker.] Then your answer would be the same on the four conditions in paragraph 32.

Sir Punshotamdas Thakurdas.] Will Mr. Jayaker mind if I just say this, that the Reserve Bank Committee Report does not deal with this question at

all... It is a matter as to how His Majesty's Government will judge whether it is successfully operating or not. I just wanted to bring that out.

Witness.] I am quite aware of that fact. At the same time, I think it is very much a part of the question, and I would have preferred a much more concentrated discussion upon it, if we can have it.

Mr. M. R. Jayaker.

8609. I leave it entirely to the Secretary of State. If you think it is better that these questions should be answered after the Report is out, I will not press it. Then the same will apply, I suppose, to the last five lines of paragraph 32, namely, the Budgetary position being assured and short term debts. I had a few questions to put, but if you think they should be reserved, I will not press them?—I do not know what you think, my Lord Chairman. I think it would be better really, to take all these Reserve Bank questions together.

8610. Very well. Then I will not ask these questions, my Lord Chairman. Then Proposal 147, at page 76: "The trustee status of existing India sterling loans will be maintained and will be extended to future sterling Federal loans". May I know what will be the procedure as regards the raising of sterling loans in future. Will they be raised by the Secretary of State or an agent of the Government of India, like the High Commissioner, or some such functionary?—Mr. Jayaker remembers that that is a question that we have discussed a good deal in the past, and upon which there are two definite opinions, one opinion being that India, anyhow in the early years of the Constitution, is more likely to get cheaper rates of money if no change is made in the name under which the loans are raised; the other being, that when a responsible Government is set up in India, it would be inappropriate and almost impossible for the Secretary of State to continue to give his name to the raising of the loans. Upon the whole, the expert view turns in the direction of the second alternative, namely, that it would be difficult after the Constitution is actually set up for the Secretary of State to go on raising loans in his name in London. But it

is a difficult question, and it is a question upon which my advisers and I would welcome the views of our colleagues in the Committee and in the Delegation.

8611. But will that condition apply if India were to raise loans elsewhere than in the British Isles?—I think it would apply still more. It would strengthen very much the second alternative course, namely, that the Secretary of State would find it very difficult to take any kind of responsibility for loans of that sort.

*Sir Purshotamdas Thakurdas.*

8612. May I ask a question arising out of that?—Does the Secretary of State think that it would be inconvenient to leave his matter to be decided by the Federal Government when the question arises and the necessity arises, or does he propose to make a statutory provision about this in the Bill?—I think myself we shall have to make a statutory provision.

8613. That India can raise no loan outside, except as a trustee security here?—No, I was thinking of the other point, as to the form in which the loans are raised, whether in the name of the Secretary of State, or whether in the name of the Federal Government. Obviously, in a question of that kind the Treasury and His Majesty's Government here are very much interested. There certainly would have to be a statutory provision, so far as I understand the position now, in the Act stating what is to be the future after the initiation of the Constitution.

8614. Would it not do to leave it permissible to the Secretary of State to put his signature to the loan here, if the Federal Government are agreeable to it, or must India be committed now for whatever the period of the Reforms be?—It is very difficult. Surely, Sir Purshotamdas will see the difficulty at once. It is very difficult for the Secretary of State to give his name to a future loan for loan for which he is not responsible.

8615. I fully see that, and that is why I am asking, need it be made compulsory on the future loans of India in the London market that they must be issued through the Secretary of State and not direct by the Federal Government, if they think fit to do the latter?—My

argument is all tending to show that I agree with Sir Purshotamdas's view, namely, that I do see grave difficulties in the way of the Secretary of State giving his name in the future to any loan for which it is not responsible.

*Chairman.*] I am very sorry to have to press the Meeting, but the position is that the Secretary of State will have to leave the Chair at half-past four, and at quarter-past four I intend to turn, at any rate, for a few minutes, to another matter, which I must deal with before we rise to-night.

*Marquess of Reading.*

8616. May I just say one word about that only. The Secretary of State's view just expressed as to the second alternative, is not intended by him to be final, I understand?—No. Because it is not final, I ask the Members of the Committee and the Delegates to think over what is a very difficult question.

*Sir Purshotamdas Thakurdas.*] I ventured to interrupt only because I felt that, as far as we are concerned, this was about the last opportunity we should have to express our views or to get the Secretary of State's intentions before the Bill was proceeded with. That was my only reason for asking.

*Mr. M. R. Jayaker.*

8617. Then in Proposal 39, at page 46, you require the previous assent of the Governor-General to any legislation dealing with coinage and exchange?—Yes.

8618. You remember, Sir Samuel, that this condition was agreed to, if at all, at a stage of the Round Table Conference, when it was considered that some temporary arrangements should be made pending the foundation of the Reserve Bank, and one of those temporary arrangements to which some part of the Indian opinion was agreed was, pending the foundation of the Reserve Bank, legislation dealing with coinage and exchange would require the prior assent of the Viceroy. Do you remember that stage, Sir Samuel?—Yes, I remember the stage.

8619. Having regard to the fact that you have now made the foundation of the Reserve Bank as a precedent condition to the coming in of Federation,

and having further regard to the fact that under Proposal 119, at page 69, the vetoing power is in the Governor-General and also His Majesty the King, do you think there is any necessity for requiring the previous sanction of the Governor-General for legislation dealing with coinage and current exchange?

—Yes, I think it is necessary to have this power. Mr. Jayaker reminds me of the previous discussions on the subject, and that we had some quite long discussions upon this particular point. The previous sanction is necessary, in my view, mainly to avoid speculation and a great slump in the exchange or a great boom in the exchange, as the result of a Bill being introduced.

8620. But will not the same disturbance in the money market result from even a resolution moved in the Central Government affecting the ratio?—I would have thought not. I would have thought a Bill would have been taken much more seriously than a Private Member's Resolution.

8621. You do not think that the power of vetoing would be enough for all practical purposes?—No; we have always attached a great deal of importance to this power in the interests of financial stability.

8622. Then the last question I wish to ask the Secretary of State is with reference to the reply which he gave to Sir Joseph Nall as regards the fiscal convention. I suppose the Secretary of State referred to what is known in the Indian Legislature as a convention which arises out of the following facts: That when the Governor-General in Council and the Legislature are agreed, the Secretary of State does not interfere. Is that what the Secretary of State had in view?—Yes. My answer to Sir Joseph Nall meant that the practice will continue under which the British Government do not intervene in fiscal questions in India. Obviously, under the new Constitution, what is now a convention might have to take a more precise form. I fully realise the necessity of that possibility. As to the precise form that it would take, I suggest that we should consider it when we come to deal in rather greater detail with these fiscal questions.

8623. What I was wanting to know was: Under the new Constitution the

Constitutional position will be very different?—The Constitutional position obviously will be different, because there will be a responsible Government, yes.

Mr. N. M. Joshi.

8624. May I ask one or two questions, my Lord Chairman? Secretary of State, you know that there are some subjects of concurrent jurisdiction, and, as regards those subjects, the responsibility lies both upon the Federal Government and the Provincial Governments. I want to ask you whether as regards these subjects of concurrent jurisdiction, subventions from the Federal Government to the Provincial Governments will not be found to be necessary, and sometimes a very suitable method of adjustment between the powers of the Federal Government and the Provincial Governments?—Will you give me an instance, Mr. Joshi?

8625. I will give you an instance. Labour Welfare is a subject of concurrent jurisdiction?—Yes.

8626. As regards that subject, the responsibility for finding money is a responsibility both of the Provincial Governments and of the Federal Government. In a case of this kind will not the Federal Government have a right to give a subvention to the Provincial Governments if the Provincial Governments undertake duties which the Federal Government should have themselves undertaken?—Yes; there is nothing at all in the proposals to prevent that.

8627. Subventions could be given by the Federal Government to Provincial Governments on such subjects?—If they wish to do so.

8628. Now I want to ask you one question about the Public Accounts Committee. I do not see any reference in the White Paper to the Public Accounts Committee. I want to know whether you propose to provide for that in the Constitution when you consider the details of the Constitution?—No. We purposely do not make provision in the Constitution for any committee of the Legislature. We feel that we really should be trespassing upon the privileges and the powers of the Legislature in bringing questions of

that kind into an Act of Parliament. The Legislature will be free to set up any Committees that it wishes to set up. I should personally be very much surprised if they did not continue to set up a Public Accounts Committee.

8629. May I ask you one further question on this point? Under the present Constitution the Public Accounts Committee also considers the report of the Auditor-General on what are called the Reserved Subjects, such as Defence. Will the Public Accounts Committee appointed by the future Legislature have a right to consider the report of the Auditor-General on the Reserved Subjects?—I do not see myself why the Public Accounts Committee should not have an opportunity of considering the accounts. It would consider them purely and only in an advisory capacity.

8630. As regards the position of the Auditor-General I want to ask a question. Under the present Constitution, the Auditor-General in India has no control over the accounts in Great Britain, and the accounts in Great Britain are audited by a separate Auditor-General. I want to know what you propose to do in the future Constitution: Whether the Auditor-General in India will have control over the accounts both in India and in Great Britain?—I have not myself considered that point. I will think about it, and communicate with Mr. Joshi perhaps further about it later on.

8631. May I ask one question more about the Political Department which deals with the Indian States? As the responsibility for dealing with the Indian States will hereafter be transferred to the Viceroy and not to the Governor-General at the head of the Federal Government, will the finances for maintaining the Political Department be found either by the States or by the Crown, or will they fall upon the Federal Government?—We have always assumed that they will fall upon the Federal Government. They were one of the inevitable charges upon the Government of India, and we have always felt that the right course was that they should be a non-votable item in the Federal budget.

8632. My question is this, Secretary of State. I quite realise that the item

is a non-votable one, but the item of expenditure will have nothing to do with the Constitution itself. The Viceroy, not as the head of the Federal Government, but as the representative of the Crown, will have relations with the States. Up to this time the case has been different. The Governor-General in Council was the head of the Government of India, and he had dealings with the Indian States, but hereafter the Viceroy, as the representative of the British Crown and not as head of the Federal Government, will have relations with the States. I therefore want to know whether there is no change in the position and, in consequence of the change, the financial burdens ought not to be transferred now?—No; we still feel that that is a legitimate charge upon the Federal budget.

Dr. B. R. Ambedkar.

8633. I would like to ask one question about the statement made by Sir Akbar Hydari on the application of paragraph 141. You said yesterday, Secretary of State, in making your brief observations on that statement that you were glad that the States had accepted, at a certain point, to bear the burden of the Federal Government?—Yes.

8634. What I would like to know is this—you can give the answer now, or, if you like to refer to it later I have no objection—whether you agree that the stage which has been described by Sir Akbar Hydari is the stage at which the States should begin to bear the burden of the Federation? He has, as you know, described certain stages through which the Federal finance must go before the States could be called upon to bear their share?—Yes.

Sir Akbar Hydari.

8635. Additional burden?—There are really three burdens. There was first of all the burden of indirect taxation that they undertake from the start; secondly, there was the burden of the Corporation Tax, or the equivalent of the Corporation Tax that they undertake after a definite term of years; and, thirdly, there was the surtax that they undertake in the event of an emergency.

. Dr. B. R. Ambedkar.

8636. I thought he laid down certain conditions?—He laid down certain conditions—Sir Akbar will correct me if I am wrong—for the third of these burdens, namely, the surtax.

8637. I wanted to know whether you agree that those were the appropriate conditions under which the Federation will resolve to surcharge?—I think so. I do not want to tie myself down to the exact words, but I think, generally, that seems to me to be a fair basis of an arrangement.

8638. The next question I want to put to you, arising out of that, is this : that if that position is maintained or even the position as it is under proposal 141 is maintained, would it not be the fact that the Federation will have to carry on its finances entirely on the basis of indirect taxation?—Not entirely on the basis of indirect taxation.

8639. To a very large extent?—Not entirely on the basis of indirect taxation. Obviously, to a large extent. Indirect taxation will then, as it does now, play a very prominent part in the Indian revenue.

8640. What I want to put to you is this, Sir Samuel Hoare, that it will be more so under the Federation than it is now, for the simple reason that the British Indians would not consent to direct taxation, because the States will not consent, and, consequently both of them would rather go in for indirect taxation to be borne by both apart, rather than agree to direct taxation, which would be borne by British India alone. From that point of view indirect taxation would be more and more forced upon them than is now the case?—From the other point of view, I can imagine the States very often on the side of the less indirect taxation.

8641. That is because they do not have their finger in the pie now. Would it be the same thing afterwards when, if they are opposed to indirect taxation they have to bear the brunt of the taxation?—Dr. Ambedkar will also remember in this triangle of forces that the Provinces will have an interest in direct taxation, as they have a share in it.

8642. Yes, that may be so, but the Province also will see that the Federa-

tion is not entirely a charge on Indian Revenue raised in British-India. It is a pure matter of speculation, but I want to pay attention to what would be the drift of the finance under the Federation. If I may say so, the Federation would entirely have to build a tariff wall round itself in order to carry on?—Dr. Ambedkar says it is a subject of speculation. I am inclined to agree with him, but I am not inclined, having assumed it is a subject of speculation, then to prophesy exactly what is going to happen.

8643. I will leave it at that. The next question I would like to ask of Sir Samuel Hoare arising out of the same proposal, 141, is this : You said that the States will contribute an equivalent amount to the Federal Revenues on a sum to be assessed on a prescribed basis. Of course, you have explained this morning how the word "prescribed" is used, and I am not going to ask you any questions upon that, but what I would like to ask you is this. Is there any provision made in the White Paper to see that the sum assessed on this prescribed basis, which becomes payable by a particular State, will be ultimately paid to the Federation?—It would then mean a default would it not, on the part of a State?

8644. Yes, supposing the State does not pay. I am assuming only one case now, for the moment?—The Viceroy then, I assume, could intervene.

8645. The Viceroy, as you know, is outside the Federal Constitution?—If Dr. Ambedkar will look at paragraph 129, he will see there : "The Governor-General will be empowered in his discretion to issue general instructions to the Government of any State-Member of the Federation for the purpose of ensuring that the Federal obligations of that State are duly fulfilled."

8646. Yes. What I want to say is this. Paragraph 129, if I may make the distinction, only gives the Governor-General the power to give a direction. It does not give the Governor-General the power to take remedial measures, if the directions are not obeyed?—The Act nowhere provides explicit sanctions in situations of that kind either for the Provinces or for the States.

8647. For the Provinces it does, because the Governor has a special responsibility to see that the orders of the Governor-General are carried out and obeyed, and to that extent he will be directly under the control of the Governor-General, and so provision does there exist, so far as the relations between the Provinces and the Centre are concerned, that his orders will be carried out?—I think there is just the same sanction, is there not, with the Governor-General and the States.

8648. No, if I may say so, as you explained on the Memorandum on the Instrument of Instructions if he disobeyed, the Governor could be recalled. There is no such provision in the relations between the States and the Centre?—In each case the responsibility is the responsibility of the Governor-General at his discretion, that is to say, subject to his instructions from here.

Dr. Ambedkar.] But my point is that just as the Governor would be subject to the power of the Governor-General with respect to the administration of the Province, the ruler of a State is not subject to the directions of the Governor-General beyond, I suppose, the administration of such matters which appertain to the Federation; that is with the Viceroy.

Mr. Zafrulla Khan.

8649. Would not the paramountcy powers apply?—That is exactly what I was going to say. There is in the States the field of paramountcy.

Dr. B. R. Ambedkar.

8650. But, as you said, the paramountcy will be assigned to the Viceroy, and not to the Governor-General?—Yes, but nevertheless the result will be the same.

Mr. Zafrulla Khan.] The Governor-General will formally make a request to the Viceroy and the Viceroy will thereupon act.

Dr. B. R. Ambedkar.] May I ask another question arising out of the same. There is another aspect of it. It is assumed that the States that would be liable to make this contribution would be solvent at the time when the contribution is called for. Is there any provision in the White Paper to see that

the Governor-General whose finances would, to some extent, be dependent upon these contributions coming from the Indian States, has power to see that these contributories will be solvent on the days when the contributions fall due.

Rao Bahadur Sir Kishnama Chari.] What is the provision with regard to the Provinces? Is there any such provision with regard to the Provinces?

Dr. B. R. Ambedkar.] Yes, the Governor can certify that a certain amount is due to the Federation and shall be paid, and it will be paid.

Mr. Zafrulla Khan.] May I recall a suggestion I made during the preliminary discussions here that the Viceroy might ask the States who are units of the Federation to submit for his information every audited copies of their accounts.

Dr. B. R. Ambedkar.

8651. There is one more point, and I think the Secretary of State may give a combined answer. If you will refer to paragraph 146 dealing with the borrowing powers you will see there it is provided that the Federation may borrow upon the security of Federal revenues. The contributions to be made under Proposal 141 will be part of the Federal revenues which will be the security for the loans which the Federation will raise. Do you think it would sufficiently add to the credit of the Federation if part of the revenues which the Federation can call upon in order to give security for the Federal loans are left in this uncertain state both as to capacity to pay and the willingness to pay?—I would have thought really that the contingency Dr. Ambedkar is contemplating is a contingency that is not very likely to arise often, and that, if it does arise, it is not the kind of contingency that is going substantially to alter the credit of the Federation. After all, these amounts taken altogether are very small amounts.

8652. I do not know what they would be?—And in the event of a single default—

8653. I hope they will not be very small?—I cannot imagine that that would make much difference to the credit of India.

Sir Akbar Hydari.] Is not the financial position of the States, through the exercise of paramountcy, in a much better condition than that of the Provinces through the exercise of the special responsibilities of the Governor?

Dr. B. R. Ambedkar.] I thought the statement made by Sir Mirza Ismail yesterday disclosed a most pathetic state of affairs.

Sir Akbar Hydari.] It was still a balanced budget by which he could pay up his tribute all right.

Mr. Zafrulla Khan.

8654. My impression was that the Secretary of State was going to tell us what would happen if there were a series of defaults?—I think I would say in the case of one default, to say nothing of a series of defaults, the Viceroy would have the power of intervening under his powers of paramountcy.

Sir Manubhai N. Mehta.] May I draw your attention to Proposal 129. It provides for it. The Governor-General will be empowered.

Sir Hubert Carr.

8655. There are one or two questions I wish to ask regarding the Provinces. It is with reference to Proposal 139 under which a share of the income-tax to be assigned to the Provinces will in all probability be reduced to extinction during the first few years: the fact that there is no income-tax to be assigned in the first year or two means that the Industrial provinces will be paying the whole cost of the Federation and the agricultural Provinces will not be taking their fair share. I was hoping that the Secretary of State would give some indication that the investigation which is taking place according to paragraph 57 will go into the question of the taxable capacity of the Provinces, and that the retention of income-tax by the Centre should be based on the taxable capacity of the Provinces rather than in the method suggested. May I remind you that the Percy Report, Section 113, recommended taxable capacity as the fairest method of emergency contributions, and I would suggest if it is the fairest method for that it is also the

fairest method for retention of income-tax from the different Provinces?—We have no provision either to arrange for that, or to preclude it. I will take into account what Sir Hubert Carr has said, but, offhand, I see a good many difficulties in the way of his suggestion, but, as I say, there is nothing in the White Paper either to say that we shall do it upon one basis, or that we shall not do it upon one basis.

8656. I was rather led to ask the question by the Percy Report, and the idea that probably the White Paper proposals were following it. That is what I had largely in mind. But, taking that matter into consideration, would you also consider the distribution of income tax, that it should be on a uniform percentage to the Provinces. I mean that those Provinces which are in deficit it is proposed in the Percy Report should be covered by the surpluses of the other Provinces. I would suggest that deficit provinces should be assisted from the general funds, and not merely from income-tax receipts which, again, react against the industrial Provinces?—There again, so far as the White Paper proposals are concerned, that field is open, and obviously we shall have to consider points of that kind before we are precise as to the way in which the arrangements should be made.

8657. Without putting forward many other proposals, should this not appeal to you, there is a third which I would like you to consider, and that is distributing the income-tax according to the origin of the tax?—I should like to think about all these proposals. What I am anxious to avoid is an endless wrangle between one province and another, raking up all sorts of trouble, and delaying any constitutional changes for years and years.

8658. It was only your statement this morning that the prescribed basis will be once for all, that made me hope you will give this matter consideration?—Yes.

8659. I will pass on, if I may, to the question of Proposal 137. There it deals with a subject which has been mentioned before, the jute duty, and it arranges that at least 50 per cent. of the net

revenue from the duty shall be given to the Province. That is, it seems to me, almost settling that 50 per cent. of the duty shall always remain with the Centre, because, with 10 Provinces out of 11 considering the distribution of that 50 per cent., seeing that 10 out of 11 will be beneficiaries by keeping it, and the eleventh the only loser, it is very unlikely that anything more than 50 per cent. which is compulsory will ever be passed over to the producing Provinces. I would therefore invite your consideration to the proposal that the jute duty should be accepted as a Provincial source of revenue, half of which may be retained by the Centre during this period of stringency. I need not go into the question of the fairness of the claim that the jute duty, which is a duty on the chief agricultural crop, should accrue to the benefit of a Province?—You cannot generalise upon questions of this kind. If you do you then have troubles in other Provinces. The very argument that Sir Hubert Carr has used for jute in Bengal, I suppose, might be used by Assam for petrol and tea, and so it goes on. We think we are doing something very substantial for Bengal in the provision that we are making for the 50 per cent. of the jute duty, and I could not to-day go any further than I have gone in what I have said about Bengal.

8660. I do not wish to carry the argument further, but I would not like to accept petrol as being on the same basis as an agricultural crop?—Perhaps tea would have been a better analogy.

8661. Tea I would be glad to accept because that was a war measure and was in the list. Turning to another subject, may I refer to the question of the economy which has been suggested in not setting up Second Chambers in the Provinces until financial conditions are more favourable? I think Lord Reading mentioned it on the 30th of June and put it rather on the basis of the Supreme Court. As you know, many have looked upon Second Chambers in the Provinces as an essential safeguard in the administration of the Provinces and to postpone a Second Chamber on account of finance does not appeal to us, and I would ask you to take into consideration that it is more a matter of holding up autonomy

until the Province can afford a full and complete Legislature than to give an incomplete Legislature, as we look upon it, in order to meet the financial requirements. Would you take that into your consideration?—I will take note of what Sir Hubert Carr has just said, but I hope it will come to that kind of dilemma. I hope it will be possible to set going Provincial autonomy and to set it going with those effective institutions in the various Provinces.

Sir *Hubert Carr*.] There is only one other point, if I may make it, over that, so as not to have my proposals all on one side: I think economy might be found by reducing the size of the Legislatures. For instance, in Bengal I believe from inquiries I have made there would be very little objection in any community to reducing the Legislature from, say, 250 in the Lower House and 65 in the Upper House, to 200 in the Lower House and 50 in the Upper House. No alteration would be made in the communal percentages and it would lead to a substantial reduction in expenditure.

Sir *A. P. Patro*.

8662. My Lord, with a view to clearing up the misunderstanding that prevails in some Provinces in India, after the statement of the Secretary of State about the finances and the publication of the finance statement, may I ask the Secretary of State: Is it not a fact that most of these Provinces have their budgets balanced by cutting expenditure to the bone altogether? All those Provinces that have now balanced their budgets have now done so after cutting expenditure to the bone and after exploiting every possible source of revenue?—I think they have made very remarkable efforts for economising. I should like to pay a tribute to them, but I would never like to say that the last word has been said with any government anywhere in the matter of economy.

8663. May I draw your attention to Section 139 and paragraphs 57 and 58 of the Introduction? These proposals are intended to augment the existing revenue of the Provinces with a view to setting them on a firm basis for advancing Provincial autonomy?—Yes.



8664. May I take the answer which you have just given to Sir Purshotamdas Thakurdas's question to mean it will be possible to introduce Provincial autonomy immediately without fresh taxation? Am I correct in quoting your statement? I noted down here that you said it would be possible to introduce Provincial autonomy in the Provinces without fresh taxation?—If Sir A. P. Patro means the introduction of Provincial autonomy with the allocation of revenue set out in paragraph 139, then my answer could not be yes.

8665. My question is this. There is a good deal of misunderstanding, in fact misrepresentation, prevailing in the Provinces to-day?—Yes.

8666. It is necessary and desirable to clear up that atmosphere?—Yes.

8667. And, for that purpose, I want a definite answer as to whether it is possible to introduce Provincial autonomy in the Provinces without augmenting the revenue by fresh taxation, having Proposal 139 in mind?—I have no desire to make the initiation of Provincial autonomy dependent upon the exaction of new taxation, and I hoped that it would be possible to introduce Provincial autonomy without any fresh taxation. That was the answer I gave to Sir Purshotamdas Thakurdas just now. When you ask me whether here to-day, without any change in the finance in India, we could at once introduce Provincial autonomy that is a more difficult question, and I could not say either Yes or No to a question of that kind.

8668. In other words, there will not be any delay in introducing Provincial autonomy in the Provinces to begin with, after the Report of the Preliminary Committee, which you are going to appoint to investigate the financial condition of the Provinces?—I hope not, but, Sir Annepu nobody on earth can give a definite answer here and now to what will be the state of affairs in, say, a year's time. I hope not, and, with the information at present at my disposal, I see no reason why that should not be the case, namely, that we should be in a position to go ahead with Provincial autonomy; but to-day I can-

not go further in being more explicit than that.

*Sir Akbar Hydari.*

8669. Will you kindly refer to Proposals 122—124, and 18 (e) and 70 (d)? Broadly speaking, these are safeguards against commercial discrimination in the administrative and legislative spheres so far as British India is concerned. Similarly, Proposals 18 (f) and 70 (e) are intended to safeguard the rights of the States. I should like to know whether it is intended that the word "rights" should be taken in its broad meaning and cover their "vital interests." I am asking this question because in other portions of the same paragraph you have used both the words "rights" and "interests." For example, would you agree that action inconsistent with what I may call a State's fundamental "right to live", or prejudicing its enterprise and so forth, should be action that the Governor-General or the Governor, as the case may be, could prevent?—Yes, I think I should certainly say Yes to a question of that kind. If either the Federal Government or a Provincial Government took such action as to endanger the economic existence of a State, to take that particular instance, I think then the Governor-General certainly should have the right and the power to intervene.

8670. Would you kindly refer to proposals 102 and 52? This was a question which I asked before. You will see that in Proposal 102 there is no provision corresponding to Proposal 52 (b) (i). Would it not be desirable to include such a provision?—To cover the kind of contingency that you have just described?

8671. Yes?—I think Sir Akbar has pointed to an omission in the White Paper and I think there ought to be a paragraph of that kind included.

8672. Will you please refer to Proposal 117? Is it proposed that a body of existing British Indian Acts should be made federal when Federation is started? If so, I take it that each acceding State will be informed of the provisions of any State law existing at the time which is considered by the

Crown to be in conflict with the provisions of any Federal Act?—The point is new to me, offhand, but I think certainly there must obviously be an inquiry at the time of the accession of a State that would go to show whether the State laws and the federal laws conform or not, and the State must know clearly what is its position as far as its State laws are concerned.

8673. Will you please refer to Proposal 119? As it stands, this paragraph suggests that the Federal Legislature might repeal or amend the Constitution Act itself with the Governor-General's consent, inasmuch as it is an "Act of Parliament extending to British India." I take it that is not the intention?—No; that is not the intention, and Sir Akbar Hydari will see that the position is safeguarded under paragraph 110.

*Marquess of Salisbury.*

8674. The Secretary of State will notice that it is merely a matter of drafting, but there is an exception which might be read to go much further than is intended: "(except, in the case of the last-mentioned Act, in so far as that Act itself provides otherwise)"?—Yes; and what we had in mind by inserting that bracket was the kind of case that I mentioned the other day, namely, the case whether, after a period to be set out in the Constitution Act, it should be permissible to the Federal Government to alter the franchise. That is a question that we have got to discuss. That was the kind of question that we had in mind.

*Sir Akbar Hydari.*

8675. Will you please refer to Proposal 153. Whilst it is, of course, essential that Judges of the Federal Court should enjoy the highest standing and prestige, I take it, that provision will be made so as not to debar the appointment of similar men from the States?—I think that is certainly a point which we ought to consider.

8676. I assume that any matter involving the interpretation of an Instrument of Accession "or the determination of any rights, or obligations arising thereunder," is intended to be covered by Proposal 155 (i). If I am right, this

might, perhaps, be made clearer?—Yes, I think, generally speaking, that is so.

*Mr. M. R. Jayaker.*

8677. I did not depend upon a question that comes up, because I can imagine a question which will be considered by the Federal Court in which an interpretation of the Instruments of Accession may become necessary?—I should like to consider a point of that kind. I think that is one of the more technical points that we must discuss when we come to discuss the question of the Federal Court.

*Mr. M. R. Jayaker.* The White Paper cannot take up the position absolutely that in no case will the Instrument of Accession be governed by the interpretation of the Federal Court.

*Rao Bahadur Sir Krishnama Chari.* Sir Akbar Hydari wants the Instrument of Accession to be included.

*Witness.* Anyhow, my general answer to Sir Akbar is the answer that I have given. The more detailed answer I will reserve for the time when we discuss the Federal Court.

*Sir Akbar Hydari.*

8678. Now in Proposal 161, the term "justiciable" is used. It has been admitted that it is indefinite and its meaning is the subject of controversy. Would it not be preferable to omit the word "justiciable" as the matter must be, without this word, of such a nature that it is expedient to obtain the opinion of the Court upon it?—I will certainly consider the suggestion. Sir Akbar will remember that the White Paper does not pretend to be a carefully drafted Act of Parliament.

8679. No. There was a great deal of controversy in India about the word "justiciable" with the Indian States. With regard to the retiring age for the Federal Court Judges, 62, I am not sure whether it is on the low side. If it were 65 years, then you would allow five years for the people who had retired from the Provincial Courts?—I will take Sir Akbar's suggestion into consideration.

*Chairman.*

8680. Secretary of State, I should like, if I may, to associate myself with the congratulations and the thanks which

you received from all over the Room this morning. I agree with every word that was said ?—Thank you very much, my Lord Chairman.

*(The Witnesses are directed to withdraw.)*

Ordered, That this Committee be adjourned to Monday next at 10.30 o'clock.

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